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# A LEGISLATOR'S HANDBOOK 1993

Seventh Edition

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**Montana Legislative Council**

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# **A LEGISLATOR'S HANDBOOK**

## **Seventh Edition**

**1993**

### **MONTANA LEGISLATIVE COUNCIL**

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Sen. Delwyn Gage

Rep. Jan Brown

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Helena, Montana 59620

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# INTRODUCTION AND ACKNOWLEDGEMENTS

Unlike those of many other states, Montana's legislators are part-time practitioners of the profession of government, who every two years must refocus their attention from private and family affairs to all-encompassing concentration on public business during the biennial 90-day regular session. This adjustment can be confusing and bewildering, particularly for a freshman legislator who is uncertain about the procedures of lawmaking, about the organization in which lawmakers will function, about the maze of state government activities, and about the responsibilities and capabilities of the full-time and session staff available to assist them.

This publication tries to dispel the confusion so that each legislator can function at the peak of efficiency.

A variety of organizations and businesses have customarily provided directories, handbooks, and souvenir publications containing biographical information, telephone numbers, mailing addresses, committee assignments, and rosters of the House and Senate. This volume is not a duplication or replacement of any of those publications.

This edition of A Legislator's Handbook presents authoritative information the legislator will need from the first day of the session and is the seventh published by the Legislative Council.

Lawmaking is continually evolving in processes and methods. While the fundamental principles underlying American government are ageless, technologies and techniques reflect progress, and any compendium of advice to lawmakers that fails to acknowledge change is soon outdated. For that reason, revision of this handbook for each regular session is necessary.

For this seventh edition, all material has been verified, freshly researched, rewritten, edited, and updated to present accurate, timely accounts of all matters relevant to the organization and function of the 53rd Legislature.

For their advice and assistance in preparing this seventh edition, acknowledgement and appreciation are due my colleagues on the Legislative Council staff: Henry Trenk, Marilyn Novak, Tom Mulvaney, Kevin Hayes, Ann Patten, Phyllis Cote, and Martin Baumann of the Legislative Services Division; Carol Ann Jacobsen and Sally Bush-Arrigo of the Legal Services Division; Beth Furbush and Nancy Cummings of the library staff; Amy Clark, Accounting Supervisor; Gregory J. Petesch, Director of Legal

## A LEGISLATOR'S HANDBOOK

Services; Lee Helman, Staff Attorney; and Robert B. Person, Executive Director. They willingly shared their comprehensive knowledge of the legislative process.

This handbook could not have been completed without the assistance provided by the Legislative Fiscal Analyst, the Legislative Auditor, the Environmental Quality Council, the Consumer Counsel, and numerous individuals in the Executive Branch. Their participation included contribution of sections relevant to their agencies and review of pertinent sections. Each of them has my acknowledgment of their assistance and my gratitude.

Additionally, Paul Verdon, a Legislative Council Staff stalwart for nearly a dozen years, deserves special recognition. His years of attention to previous editions of this handbook laid a solid foundation of form and substance. It is his work that continues to provide the bulk of information provided in this edition.

All of us who participated in the preparation and publication of A Legislator's Handbook 1993 hope those for whom it is intended will find it a useful tool in their work as Montana's lawmakers.

David D. Bohyer  
Research Director  
Montana Legislative Council

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## **CHAPTER I**

### **THE LEGISLATURE—AN OVERVIEW**

Montana's State Constitution was written by delegates to a convention in 1972 and ratified by popular vote that year to replace the 1889 organic law under which statehood was achieved. In keeping with the U.S. federal system, the Montana Constitution provides for independent Legislative, Executive, and Judicial Branches. The people express their will directly through the Legislative Branch, which enacts laws, levies taxes, and appropriates revenue received from those taxes to various agencies of government for public purposes.

The Legislature is established by the Constitution, and its structure and function are prescribed by constitutional law and appropriate rules.

The 1972 Constitution provides for review every 20 years; the people were asked in 1990 to vote on a proposal for a constitutional convention.

#### **STRUCTURE AND FUNCTION**

As established by the Montana Constitution, the Legislature consists of the Senate and the House of Representatives, but the base of legislative authority resides with the people through their retention of the rights of initiative and referendum. With these powers, the people may perform any legislative function except the appropriation of money or the enactment of local or special laws. Since 1972, 50 statutory initiatives or referendums (118 since 1908) have been proposed, 24 constitutional amendments have been referred by the Legislature, and 64 constitutional amendments have been initiated by the people. In this time period, the people have approved 14 constitutional amendment referendums and two constitutional amendment initiatives.

The Senate consists of 50 members elected to serve four-year staggered terms, while the House is composed of 100 members chosen for coterminous two-year terms.

Each member of the House represents a district compact and contiguous. All districts are as nearly equal in population as is practicable. Each member of the Senate represents a district composed of two adjoining House districts. A variation of plus or minus 5% from the optimum House district population of 7,867 was the goal in the 1980 reapportionment. Variation range achieved was -5.04% to +5.14%.

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Using data from the 1990 census, a commission of five citizens, none of whom hold any other public office, will submit to the 1993 Legislature an apportionment plan under which the population of each district falls within the allowable variation and under which each conforms with the requirements for compactness and contiguity. The plan will be implemented for the 1994 election.

A candidate for the Legislature must have resided in the state for at least one year preceding the general election. For six months preceding the election, the candidate must have been a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

Each legislator is paid a salary and expense allowance as established by law; however, no Legislature may fix its own compensation. A law changing legislators' remuneration cannot become effective until the succeeding Legislature takes office in January of the next odd-numbered year when the regular session of not more than 90 days convenes. Any Legislature has the power to increase the limit on the length of any subsequent session.

Special sessions may be convened by the call of the Governor or at the written request of a majority of the members. Since the implementation of the 1972 Constitution, the Legislature has met in special sessions 12 times.

Each Legislature has a lifespan of approximately two years. The 53rd Legislature will convene January 4, 1993.

The legislative power embraces many elements, including investigation, confirmation, and impeachment. The great function of the Legislature, however, is lawmaking, which consists of considering bills.

### **BILLS**

A law is enacted by the passage of a bill in the same form in each house. No bill may be so altered on its course through the Legislature so as to change its original purpose. Procedures discussed later in this handbook govern the movement of a bill through the process and define its passage. Several constitutional principles underlie these procedures.

- Every vote of each member on each substantive question is public and is recorded.

## THE LEGISLATURE—AN OVERVIEW

- With the exception of appropriation and codification bills, a bill may contain only one subject, clearly expressed in its title. Any provision not expressed in the title is invalid.
- A general appropriation bill may include only expenditures for the ordinary costs of the Legislative, Executive, and Judicial Branches, for interest on the public debt, and for the public schools. An appropriation bill must originate in the House. Appropriations to private persons for religious, charitable, industrial, educational, or benevolent purposes not under control of the state are prohibited.
- Challenge of a law for failure to meet any of these requirements may not be taken later than two years after the law's effective date.
- Prior to submission to the electorate, amendments to the Montana Constitution require approval by two-thirds of all legislators (at least 100 members) and are immune from gubernatorial veto.

### LEGISLATIVE RULES

Debate, deliberation, and procedures are restricted within a framework of rules. Because at the beginning of each regular session the House and the Senate adopt the rules of the previous Legislature as the temporary rules, the rules cited here are those of the 52nd Legislature. Later in the session, after approval by the Rules Committees, the permanent rules are adopted.

The Legislative Council publishes Rules of the Montana Legislature, and new legislators may obtain a copy of the 52nd Legislature's rules.

When a question or situation arises that is not anticipated in the Joint Rules or in the Senate or House Rules, proceedings are governed by Mason's Manual of Legislative Procedure.

The essence of rules was expressed in four paragraphs in the Illinois Legislature's handbook Preface to Lawmaking:

Of all the things that can be said about the rules, perhaps the most important is that a well grounded knowledge of them is crucial to any legislator who hopes to carry a proposed law through the General Assembly to the Governor's desk. They are the foundation of legislative procedure; if you don't know the rules, you don't know the game.

## A LEGISLATOR'S HANDBOOK

The rules of procedure establish the order for calling up the business of the day and establish the deadlines for concluding a particular phase of legislative business; they give priority of consideration to the questions which arise in the course of that business, and they provide the method for disposing of those questions.

The rules provide a method for a majority to work its will, and while protecting that majority against minority obstruction, they also guarantee certain rights to minorities and individual members. Also, since rules are written to facilitate the flow of business and not obstruct it, they can be suspended with the consent of the body when it is necessary to remove them as an obstruction to the work of the body. This is not true, however, of constitutional procedural requirements.

Often a rule has no greater purpose than to establish order where there would otherwise be confusion. Such a rule gives the presiding officer an authority for taking a particular direction. An example of this kind of rule is the rule ranking the precedence of certain kinds of motions from the floor.

### LEGISLATIVE ORGANIZATION

Before December 1 of each even-numbered year, the members of the two parties in each house meet in pre-session caucus to nominate officers. Following caucuses, the nominated officers prepare for the session by appointing committees and hiring necessary employees.

Also during the pre-session period, the legislative leaders and the members appointed to the Legislative Administration Committees, Committee on Committees, and the Rules Committee complete organizational tasks and assign space and seating. During this period, the House Appropriations Committee and the Senate Finance and Claims Committee may review appropriations requests and may visit state agencies and institutions.

After the November election, each legislator will receive a request to indicate his or her first three preferences for standing committee appointments. As far as possible, these preferences are taken into account in assignment of legislators to committees.

## THE LEGISLATURE—AN OVERVIEW

The officers of the Senate include a President, a President Pro Tempore, a Majority Leader, a Minority Leader, a Majority Whip, and a Minority Whip. While not officers, the members of the Committee on Committees are elected in the same manner as officers.

The officers of the House of Representatives include a Speaker, a Speaker Pro Tempore, a Majority Leader, a Minority Leader, a Majority Whip, and a Minority Whip.

On the opening day of the session, pro forma elections are held in both houses, and the officers nominated at the presession caucuses are elected officially and for the record.

The President of the Senate appoints a Secretary of the Senate, a Sergeant-at-Arms, and a Chaplain. The Speaker of the House appoints a Chief Clerk of the House, a Sergeant-at-Arms, and a Chaplain.

The President of the Senate and the Speaker of the House preside over the respective houses (except during Committee of the Whole action when another member is appointed to preside), preserve order, recognize members who wish to speak, and vote as any other member.

## ETHICS FOR LEGISLATORS

Article XIII, section 4, of the Montana Constitution requires the Legislature to provide a code of ethics prohibiting conflict between public duty and private interest for members of the Legislature and for all state and local officers and employees. Title 2, chapter 2, of the Montana Code Annotated sets forth standards of conduct for elected officials and employees. Section 2-2-111, MCA, provides rules of conduct for legislators, while 2-2-112, MCA, outlines ethical principles for legislators.

## A LEGISLATOR'S HANDBOOK

## **CHAPTER II**

### **ADMINISTRATIVE NUTS AND BOLTS**

The first step in transforming the newly elected Representative or Senator into a functioning lawmaker is acquainting him or her with the details of the Legislature's operational and support systems. Understanding of the personal accommodations, accounting procedures, staff and supply services, and communications facilities enables the legislator to use his or her time and effort most productively.

#### **PREPARING FOR THE SESSION**

The period between the November election and the convening of the Legislature imposes many duties upon members and their agency staffs. For a new legislator, the pre-session caucus mentioned earlier will be the first opportunity to participate in an organized activity. There are, however, many other important activities before the session begins. Probably the basic consideration is learning how to request and introduce a bill. For complete information on this process, see Drafting and Introduction of Bills in CHAPTER III, LEGISLATIVE PROCEDURES.

#### **FIRST DAY**

The law provides that each regular session of the Legislature begins at 12 noon on the first Monday of January (except when January 1 falls on a Monday, the session will begin on the first Wednesday). Representatives report to the House Chambers, and Senators report to the Senate Chambers.

The leaders of each house assign members' seats prior to the opening of the session. Leadership seats are in the same location each session, and some veteran members retain their seats from session to session. Efforts are made to accommodate the nonconflicting seating preferences of individual members. On the first day in each of the chambers, a seating chart is posted showing assignments. A Sergeant-at-Arms will help members find their desks.

On the opening day of the session, each member will find on his or her desk a packet containing information about post office boxes and lockers as well as forms to be completed, including a W-4 form for tax withholding statements, health insurance applications, and other necessary paperwork.

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The first day's session is called to order by the senior member present in the Senate and by the Secretary of State in the House. Roll is called, the constitutional oath of office is administered, usually by a Supreme Court Justice, and officers are officially elected. Some perfunctory committee reports will be read, such as from the Committee on Legislative Administration concerning the employees hired for the session, but the first day's session will probably last only about one hour. (See DRAFTING AND INTRODUCTION OF BILLS in Chapter III for information on how to preintroduce a bill that will be ready for consideration on the first day.)

### **PARKING**

Before the session opens, each legislator is assigned an individual, numbered parking space, either in front or in back of the Capitol. Parking assignments are made by leadership usually according to seniority, although special consideration is given to members who are handicapped or elderly. Unauthorized parking should be reported to the Sergeant-at-Arms, who will issue a "Please remove" warning to the owner of the offending car.

### **LOCKERS**

The Sergeant-at-Arms of each house will assign a locker to each member. House members' lockers are located on the first floor of the Capitol. Senate lockers are in the cloakroom.

### **HOW TO REPORT ABSENCE**

If a legislator wishes to be excused from meetings on a legislative day because of illness or for any legitimate reason, he or she should notify:

Senate:	Party Whip
House:	Majority Floor Leader or Minority Floor Leader, depending on the party to which the member belongs

### **MAIL**

**Incoming Mail:** A post office box on the first floor in the State Capitol is assigned to each legislator. The combination to the lock will be provided in each legislator's information packet on opening day.

**During the Interim:** All first-class mail is forwarded by the Legislative Council.



## ADMINISTRATIVE NUTS AND BOLTS

Outgoing Mail: Stenographers are available for assistance in typing letters. These services are detailed later in this chapter.

Items to be mailed may be deposited at:

Senate: Sergeant-at-Arms  
House: Chief Clerk's office

The Sergeants' offices also have postage stamps available for purchase.

## TELEPHONE SERVICES

The number for legislative general information and message center is 444-4800.

A Legislative Directory compiled and published through cooperation of Mountain Bell and the Legislative Council provides complete listings of addresses and phone numbers of all legislators and staff as well as state government agencies.

Legislative telephones are on a state telephone network (STN). All calls are recorded with the originating number, time of day, number dialed, and length of call. You will find a telephone and state government directory with STN instructions in every committee room. Joint Rule 10-70 provides:

Long distance telephone calls made by a member while the Legislature is in session or the member is in travel status are considered official legislative business. These include but are not limited to, calls made to constituencies, places of business, and family members.

## SECRETARY OF THE SENATE — CHIEF CLERK OF THE HOUSE

The Secretary of the Senate and the Chief Clerk of the House are the main administrative officers of the two houses. Many of the temporary session staff answer directly to these officers who supervise the hiring and day-to-day functions of the staff and who are present on the rostrum during the daily sessions. During a session, the Secretary of the Senate and the Chief Clerk of the House keep all the records of the respective houses and are responsible for the daily journals, histories of each bill, preparation of the daily calendar, etc. They are the experts on the status and flow of all legislation and the work of all the rostrum employees.

## A LEGISLATOR'S HANDBOOK

### TEMPORARY SESSION STAFF HIRING

The Legislative Administration Committee of each house, upon recommendation of the Chief Clerk of the House and the Secretary of the Senate, hires the temporary session staff, such as reading clerks, journal clerks, bills clerks, proofreaders, doorpersons, amendments coordinators, bills coordinators, supply officers, status input technicians, sergeants-at-arms, and secretary/stenographers. Application forms for these positions are available from the Legislative Council, whose only function in this regard is to collect the applications for the Legislative Administration Committees. Often, experienced people are rehired to fill a position they filled in a previous session. It is not unusual to have nearly a hundred applications for each available position. Because experienced secretaries are scarce, a qualified secretarial applicant who has the skills required for legislative work has an excellent chance of being hired.

The Legislative Council hires temporary proofreaders, editors, data entry operators, bills distribution clerks, and public information office staff. Legal and research staff of the Legislative Council, Legislative Fiscal Analyst, and Environmental Quality Council serve as permanent, professional staff to the Legislature, so there are rarely professional staff openings on a temporary basis during the session.

See Chapter VII for information on assignment of legislative interns and aides.

### LEGISLATIVE PAGES

The services of legislative pages are available for every legislator. There is a "page call" button on each desk. Pushing this button lights up your desk number on the page board on the front row of desks in the chambers to indicate your need of a page.

Pages may be used to deliver or pick up mail at the Capitol post office, at state agencies, or from officials located in the Capitol; to deliver notes and messages to other legislators; or when a legislator is busy in the chambers, to get a cup of coffee or a snack.

**How Pages Are Hired:** Applications for appointment as pages are available at the office of the Chief Clerk of the House or the Secretary of the Senate after the presession caucuses. A page is usually a junior or a senior in high school and is sponsored by a legislator to serve for one week: Monday through Saturday. Pages are hired by the Legislative Administration Committees.

## ADMINISTRATIVE NUTS AND BOLTS

### STATIONERY

Official legislative stationery and envelopes are printed by the Publications and Graphics Division of the Department of Administration. Each legislator is entitled to 500 letterheads and 500 envelopes to begin the session. Legislators will order their first box of stationery through the Sergeants-at-Arms' offices.

### OFFICE SUPPLIES

Office supplies are available from:

Senate: Sergeant-at-Arms' office  
House: Supply clerk, Sergeant-at-Arms' office

Supplies that are not on hand may be ordered through the Sergeant-at-Arms of the Senate or the supply clerk of the House.

### TYPING AND COPYING

Both the House and Senate have steno pools of qualified typists. Copying machines are available for use by each chamber. Legislators should use the copy machines assigned to their chamber and not those of the other chamber, the Legislative Council, or any other state agency. For jobs of more than 100 copies, the Chief Clerk's or the Secretary of the Senate's staff will have copies made in the Capitol Copy Center in the Capitol basement. Per copy costs of large print orders – usually more than 100 copies – are reduced when done in the Capitol Copy Center.

Typing and copying should be restricted to legitimate legislative business.

### STENOGRAPHIC SERVICES

Stenographers and typists are available to all legislators for dictation and typing of letters, news releases, etc. Members may check out dictation equipment from the stenographic pool.

### BILL DISTRIBUTION

The new legislator may initially be overwhelmed by the mountain of paper, including bills, reports, budgets, recommendations, and other documents that cover his or her desk when the session opens. As the session advances, that paper mountain will probably grow.

## A LEGISLATOR'S HANDBOOK

Printed bills and resolutions are the grist on which the lawmaking mill grinds. Accompanied by the amendments that punctuate their movement through the legislative process, prompt production and immediate distribution of these documents are essential to the orderly progression of work.

Each day members receive an agenda packet with a daily agenda and copies of all bills on second and third reading for that day. Additional copies of all bills are available upon request. Additional bills can also be obtained on request from the House or Senate Bills Distribution office.

Additional copies of legislative documents may be obtained from:

Senate:	Bills distribution clerk
House:	Bills distribution clerk

Information on supplying bills to constituents is provided in Chapter VIII, SERVICES TO CONSTITUENTS.

### **BILL STATUS INQUIRY SYSTEM**

A state-of-the-art information service utilizing modern techniques and facilities offers instant information to legislators and the public on bill draft status, introduced bill status, committee scheduling, and other essential elements of the lawmaking process. Training for legislators in the use of the system is provided by the Legislative Council staff.

Five input terminals—located in the Legislative Council's Legislative Services Division, on the House and Senate floors, and in the offices of the Clerk of the House and the Secretary of the Senate and staffed by skilled, experienced operators—allow reports of the latest action on every bill to be fed into the on-line system and to be immediately accessible. Access to the on-line information system is available to legislators and the public at the Legislative Information Office in the Capitol, where staff can assist in providing information.

Another method of access to legislative information is through the computer terminal located near the Senate Chambers. This unstaffed terminal operates for legislators and the public 24 hours a day.

Access to the on-line bill status system is achieved easily. Anyone who can read and follow a few elementary instructions can operate a terminal. The instructions on the self-teaching screen are augmented by a user guide and printed directions at the terminal.

## ADMINISTRATIVE NUTS AND BOLTS

A simple touch on the keyboard of an access terminal calls up to the screen before the user any one of 12 displays of information as fresh as the last keystroke by the input operator. Bill sponsors, committee meetings, floor actions, and other relevant details go into the system as soon as reported to the input operators.

Screens that will be subject to immediate call-up are:

### MAIN SELECTION

- Select LC Number
  - Draft Status for Selected LC Number
- Select Bill Number
  - Bill Status for Selected Bill Number
- Select House Sponsor (two screens)
  - Primary Sponsor's Bill List (For Selected Representative)
- Select Senate Sponsor
  - Primary Sponsor's Bill List (For Selected Senator)
- Select Committee
  - Committee's Hearing Schedule (For Selected Committee)
- Select Date (For Hearing Information)
  - All Committee Hearings for Selected Date
- Select Subject
  - Introduced Bills for Selected Subject
  - Bill Draft Requests for Selected Subject

Complete instructions for use of the information screens are provided in user handbooks developed by the Legislative Council staff and focused directly on answering questions arising from legislators, staff, and the public.

More than 30 different hard-copy reports are generated from the system to satisfy the needs of various users. An example is a report provided to each legislator on bills he or she is sponsoring. Frequency of hard-copy reports will be determined by users' demand for or acceptance of the service.

The following is an illustration of the Main Selection Screen that will introduce the user to accessible information.

## A LEGISLATOR'S HANDBOOK

### STATE OF MONTANA—BILL STATUS INQUIRY SYSTEM MAIN SELECTION SCREEN

- 1- BILL STATUS OR BILL DRAFT STATUS
- 2- HOUSE MEMBER BILL SPONSOR LIST
- 3- SENATE MEMBER BILL SPONSOR LIST
- 4- COMMITTEE HEARING SCHEDULE FOR A SPECIFIC COMMITTEE
- 5- HOUSE COMMITTEE HEARING SCHEDULES FOR TODAY, OR FOR SOME FUTURE DATE
- 6- SENATE COMMITTEE HEARING SCHEDULES FOR TODAY, OR FOR SOME FUTURE DATE
- 7- INTRODUCED BILLS/UNINTRODUCED BILL REQUESTS BY SUBJECT
- 8- SYSTEM INFORMATION

TO EXIT SYSTEM, TYPE "OFF" IN OPTION NUMBER FIELD AND PRESS ENTER KEY.

TYPE IN OPTION NUMBER HERE-->      AND PRESS THE ENTER KEY.

OPTIONAL: IF OPTION 1 SELECTED, TYPE BILL OR LC NUMBER HERE-->    \_\_\_\_\_  
OPTIONAL: IF OPTION 7 SELECTED, YOU MAY TYPE IN THE FIRST FEW  
LETTERS OF THE SUBJECT HERE--> \_\_\_\_\_

**Hearings List:** The Senate will be capable of providing a comprehensive hearing calendar to list all bills assigned for hearing and the time and place of hearings.

### COMPENSATION — BENEFITS

During the 1993 session, each legislator will receive \$50 per day (seven days per week) for expenses and \$57.06 per day (for each legislative day) for compensation. For participation in interim activities, a legislator is entitled to the daily compensation of \$57.06 plus mileage and expenses as provided in 2-18-501 through 2-18-503, MCA. Although the Legislature provides by law for the compensation and allowances for members, no Legislature may fix its own compensation. A compensation rate set by the 1993 Legislature will not be effective until the 1995 Legislature is seated. Section 5-2-301, MCA, provides that a legislator is entitled to compensation at the daily rate of a grade 8 classified state employee at entry level in effect when the regular session is convened.

The payroll is prepared by the accounting staff of the Legislative Council. Each legislator's warrants are delivered to his or her Capitol Station post office box. Salary warrants are distributed every other Wednesday on the same schedule as state employees' warrants. Expense warrants are distributed each Wednesday.

The following deductions will or may be made from a legislator's checks:

- (1) Social Security at the rate of 7.65% of the gross salary;

## ADMINISTRATIVE NUTS AND BOLTS

(2) Income tax, both state and federal, in accordance with the exemptions claimed on the member's W-4 form;

(3) Public Employees' Retirement System (P.E.R.S.) at the rate of 6.3% until July 1, 1991, and 6.417% thereafter from the checks of those members electing to have retirement deductions;

(4) Deferred compensation plan if you voluntarily elect to defer a portion of your income.

Sick leave and annual leave benefits do not apply to elected officials.

### Legislator's Deduction of Per Diem Living Expenses

Federal income tax provisions allow legislators the benefit of a deduction for living expenses. Under Internal Revenue Code section 162(h), legislators who live more than 50 miles from the Capitol may deduct the federal per diem rate per legislative day for living expenses without having to stay overnight (the legislator is considered to have stayed overnight) away from home and without keeping substantiating records (the legislator is considered to have expended the federal per diem amount). Appendix A of 41 Code of Federal Regulations, chapter 301, as it read on February 1, 1990, set the federal per diem rate at \$66 for all of Montana except Great Falls, where the per diem rate was \$67.

A legislative day, for the purposes of this law, encompasses attendance at legislative interim hearings and meetings as well as participation while the Legislature is in session. If formally recorded as attending an interim committee meeting, even if not a member of the interim committee, a legislator may claim expenses for attending it.

A memorandum that details the federal provision and provides necessary dates and amounts that a legislator's tax advisor must have to complete the legislator's federal income tax return may be obtained from the Legislative Council.

### Retirement

Membership in the P.E.R.S. is optional to each elected official. If you do not elect membership at the beginning of your term, you retain the right to retroactively pick up your elected service without prejudice or additional cost at any time prior to the end of your final term of office (or at any other time you are employed by a covered P.E.R.S. employer).

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The basic retirement formula is presently 1/56th of final compensation (the average of the three highest years' salary) times the number of years' service. (A legislator's salary is calculated on the annualized basis of \$14,836 a year—Grade 8, entry.) A member may decide to refrain from contributing until he or she has served for five years or more and is eligible for a vested membership in the system.

Normal retirement is granted at 60 years of age with five years of creditable service; at any age with 30 years of creditable service; at 50 years of age with five years of creditable service with an actuarially reduced benefit; at 25 years or more of creditable service, but with an actuarially reduced benefit; or at age 65 or older regardless of the number of years of service. Early retirement benefits may begin sooner, but with an actuarially reduced benefit.

Creditable service includes not only legislative service, but also service with any agency covered by the P.E.R.S. and other creditable service purchased under applicable statutes. (Such other service may include military service, service out-of-state, "one-for-five", etc.)

Employee contributions are refundable with accumulated interest for any member not qualifying for retirement benefits.

In addition to the regular retirement benefits, there are provisions for benefits in case of disability or death.

If you have any questions concerning the Public Employees' Retirement System, please contact the Administrator, 1712 Ninth Avenue, phone 444-3154.

### Group Health Insurance

Members of the Legislature are eligible to enroll in the employee benefit plan. Eligibility for newly elected officials begins on the date the oath of office is taken or the date the term begins, whichever is earlier.

"Core" plan coverage for each legislator is paid through the state's contribution of \$190 a month and provides basic medical, dental, and life protection. The legislator's insurance coverage is effective 12 months of the year. The legislator must self-pay for his or her share of premiums if optional benefits are selected.

The basic medical benefits of the "core" plan include a deductible of \$200 per individual and \$600 per family for covered medical expenses in each benefit year. After the deductible, the plan will pay 75% of covered



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medical expenses and 70% of the cost of name brand prescription drugs and 90% of the cost of generic prescription drugs. If covered medical expenses exceed \$3,000 for an individual or \$6,000 for a family in a benefit year (September 1 through August 31), the plan will pay 100% of remaining benefit-year charges, which are within UCR limits. Refer to the Employee Benefits Plan booklet for information on specific services.

Dental benefits under the "core" plan will pay 100% for covered dental expenses incurred under Type A dental expenses, 80% of Type B dental expenses, and 50% of Type C dental expenses. Refer to the Employee Benefits Plan booklet for details of Types A, B, and C benefits.

Medical and Dental coverage of any pre-existing condition is available only after the member has been continuously covered for a period of at least three hundred sixty-five (365) consecutive days.

The basic life insurance benefit of the "core" plan is \$10,000 for each employee.

Optional benefits are available for legislators and their dependents. Each legislator will receive a statement at the beginning of their term and at the beginning of each plan year, listing all benefits selected. The legislator will be required to pay the premium for those benefits which exceed the State contribution. The optional benefits are described in detail in the Employee Benefits Plan booklet.

An enrollment form MUST be completed and signed to indicate the coverage you desire or to "waive" the benefits and not participate in the plan. The legislator also has the option to waive State plan coverage and request that the State contribution be paid to an alternate insurance plan. To request this option an "Alternate Health Insurance Election" form must be completed.

Plan information may be obtained through the Department of Administration, State Personnel Division, Room 130, Sam W. Mitchell Building, Helena, or call 444-3819.

444-3663 or 444-3871

### Deferred Compensation Plan

The State of Montana Deferred Compensation Plan is a voluntary supplemental retirement program available only through payroll deduction for any active (part-time, seasonal, contracted, full-time) employee. The Plan allows employees to defer as little as \$10 per month, or up to 33 1/3% of includible compensation (approximately 23 1/2% of gross income) or \$7,500, whichever is less. The amount deferred is pre-tax,

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therefore, on average, about 21 cents in state and federal taxes is "deferred" for each dollar invested. For example; if \$50 is deferred each paycheck, the difference in net take home pay would be approximately \$39.50.

Enrollment in the Plan can start any time. There is no specific time or period during which an employee becomes eligible or must enroll, except **the Plan is only available through payroll deduction and, therefore, during the periods in which paychecks are received through the Central Payroll System.** The sooner deferrals start, the larger the account can be at retirement or termination.

Because the Program is a tax-deferred supplemental retirement program, funds may only be withdrawn upon termination of employment - regardless of age - or upon an unforeseeable emergency which meets IRS criteria and is approved by the Plan. A federal and state tax liability will exist on any funds received for the year in which they were received.

The State Personnel Division contracts with Nationwide Life Insurance company to provide a variety of investment options, and also contracts with DAD Benefits, a division of D.A. Davidson and Company for the enrollment and administration of the Plan. Currently, employees have 25 investment options from which to choose; a "fixed" account which earns interest daily, compounded annually, and the "variable" funds which offer a choice of stocks, bonds, or money market accounts.

An administrative charge of \$1 per month - \$12 annually - is assessed to all Plan participants on their anniversary date and an additional monthly state administration fee which covers all administrative costs is also assessed. This monthly administration fee may not exceed 0.10% (one tenth of one percent) annually.

For further information and complete details of the Plan, please contact DAD Benefits at 442-9882 or 1-800-735-6495.

### Travel Funds

The Legislature as an entity usually does not appropriate itself travel funds other than the statutorily authorized round trips to and from a session. However, there is an appropriation to each house for the biennium which is intended to provide funds for travel by the leadership for the biennium.

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The leadership appropriation is in addition to the money available to designated legislators for attendance at meetings of the National Conference of State Legislatures, the Council of State Governments, the Five-State Legislative Conference, the Forestry Task Force, permanent legislative committees, legislative study committees, and other special committees.

Although the appropriation is intended to pay costs of travel required of the leadership to fulfill their responsibilities, other legislators may request payment from this fund for costs of travel to meetings that are beneficial to the state. If the leadership agrees that the purpose of the trip is meritorious, payment of travel costs may be authorized.

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# CHAPTER III

## LEGISLATIVE PROCEDURES

### AGENDA ITEMS

The business of each house is conducted in conformance with procedures established in the Joint Rules and the rules of each house. The rules provide for the order of business, motions, resolutions, drafting and introduction of bills, referral and reporting of bills, second and third readings, transmittal dates, and consent calendar.

### ORDER OF BUSINESS

The agenda followed by each house during each business day is called the Order of Business. After the opening prayer, pledge of allegiance, roll call, and report on the journal, the Senate and House proceed through their business in this progression, although there may be nothing to discuss on any particular day under one or more of the Orders of Business.

The 12 Orders of Business in the Senate, with notes on differences in the House, are:

No. 1 - Communications and Petitions. Various types of communications may be read to the legislative body.

No motions are acceptable.

No. 2 - Reports of Standing Committees. Reports are read from the rostrum. Legislators do not receive an actual copy in the originating house, but amendments are printed in full in the daily journal. After a favorable vote, an amended version of the bill is printed.

Generally, no motion is acceptable except some privileged motions, such as to adjourn, for a roll call vote, for a call of the house, or for some other incidental motion; however, by established practice these motions are not generally made.

No debate is had unless a minority committee report has been submitted. A member seeking to challenge the action on the adoption of a favorable or an adverse committee report may do so on Order of Business No. 6 (Order of Business No. 9 in the House) by a motion to reconsider and need not have voted on the prevailing side.

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No. 3 - Reports of Select Committees. A conference committee is an example. If the Senate or the House amends a bill passed by the originating house and the originating house then refuses to accept the changes, a conference committee is appointed from each house to resolve the difference. A "conference committee" must confine itself to accepting or rejecting each disputed amendment in its entirety. A "free conference committee" may discuss a bill in its entirety. Until the 51st Legislature, "accede" was used in the conference committee report to indicate that one house would accept the amendment proposed by the other house; "recede" meant that the house proposing a particular amendment would withdraw the amendment. That usage is now discouraged, and any change proposed must be stated in the instructions the conference committee includes in its report.

No motion is acceptable. Any motion relating to business under this order of business is considered under Order of Business No. 6 (Order of Business No. 9 in the House).

No. 4 - Messages From the Governor. The full text of this material is printed in the daily journal.

No motion is acceptable. Any motion relating to business under this order of business is considered under Order of Business No. 6 (Order of Business No. 9 in the House).

No. 5 - Messages From the Other House. These messages may request that a bill be returned, advise that bills are being transmitted for concurrence, or convey other information.

No motion is acceptable. Any motion relating to business under this order of business is considered under Order of Business No. 6 (Order of Business No. 9 in the House).

(Orders of Business Nos. 4 and 5 are reversed in the House.)

No. 6 - Motions. (Order of Business No. 9 in the House) Any motion is in order under this item of business, but only a few have been used as established practice. These arise out of the work of the body of a general procedural nature and are temporary in purpose. Some main motions are of substantive nature relating to final disposition of a measure.

Privileged Motions: to adjourn; call of the house in absence of a quorum; to recess; question of privilege; call of the house when a quorum is present

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**Incidental Motions:** appeal; parliamentary inquiry; suspension of the rules for immediate purpose; roll call vote; division of question

**Subsidiary Motions:** to lay on the table; previous question (immediate vote); postpone to a day certain; close, limit or extend limit of debate; to refer; to rise, to rise and report, to rise and report progress and ask leave to sit again; pass consideration (takes this order of preference in Committee of the Whole); amend; indefinitely postpone (opens main question to debate)

**Main Motions:** to pass, adopt, or concur; to reject passage, adoption, or concurrence; to appoint

**Incidental Main Motions:** (In order under proper order of business when no question is before the body) to reconsider; to take from table; to pass consideration for the day; to place business on the calendar; to change order of business on the calendar; to suspend rules temporarily (with reference to business not immediately pending)

**No. 7 - First Reading and Commitment of Bills.** (Order of Business No. 6 in the House) "Posting" has taken the place of "reading" bills to save time.

No motion is in order except on the first legislative day the chief sponsor of a preintroduced bill may move to add names of cosponsors.

**No. 8 - Second Reading of Bills (Committee of the Whole).** (Order of Business No. 7 in the House) Floor debate on a bill occurs at this time. Amendments may be offered but should be previously typed, signed, and presented at the office of the Secretary of the Senate or the Chief Clerk of the House. The second reading copy of the bill (yellow) has standing committee amendments incorporated into the introduced version.

Motions that are acceptable in descending order of precedence are:

- (1) to rise;
- (2) to rise and report;
- (3) to rise and report and ask leave to sit again;
- (4) to pass consideration;

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- (5) to amend;
- (6) to indefinitely postpone; and
- (7) to recommend passage or concurrence.

(Prior to adoption of the Committee of the Whole report, a member may move that a bill be segregated from the report and left on second reading for further consideration.)

**No. 9 - Third Reading of Bills.** (Order of Business No. 8 in the House) In the house of origin, the third reading (engrossed) bill (blue) contains all amendments. No debate is permitted. In the second house, a third reading bill (salmon) is called a "reference bill" and is the text of the engrossed bill plus amendments made by the second house. If "concurrent in as amended", this version of the bill is transmitted to the originating house for concurrence in amendments.

The only motion allowed is to rerefer the bill to the Committee of the Whole or to a standing committee.

**No. 10 - Unfinished Business.** This order of business is rarely used in the Senate; in the House this order of business includes appointments to conference committees and similar matters.

**No. 11 - Special Orders of the Day.** Confirmations of Governor's appointees, memorial services, etc., are handled under this item of business.

**No. 12 - Announcement of Committee Meetings.** Committee chairmen announce meetings. Adjournment may occur.

To revert to or pass to a new Order of Business requires only a majority vote. When reconvening after a recess, unless otherwise specified in the motion to recess, the house involved reverts to Order of Business No. 1.

## MOTIONS

During debate of any question, no motion may be made except the following privileged and subsidiary motions, which have precedence in the order listed:

- (1) to adjourn;
- (2) for a call of the house;



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- (3) to recess;
- (4) question of privilege;
- (5) to lay on the table;
- (6) for the previous question;
- (7) to postpone to a certain day;
- (8) to refer or commit;
- (9) to amend;
- (10) to postpone indefinitely.

A bill or resolution that is postponed indefinitely is finally rejected and may not be acted upon again during the biennium unless a member moves to reconsider the question either on the day the vote was taken or on the next day the house in which the action was taken is in session. A motion to recall a bill from the other house constitutes a notice to reconsider. If a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. Failure of a motion to reconsider finally and conclusively settles the question.

Adoption of a motion for the previous question closes debate immediately and brings to a vote the main question and the adhering subsidiary motions. If the previous question is ordered on a debatable question that has not been debated, the question may be debated for one-half hour, one-half of such time to be given to the proponents and one-half to the opponents.

Nondebatable motions are:

- (1) to adjourn;
- (2) for a call of the house;
- (3) to recess;
- (4) for parliamentary inquiry;
- (5) to suspend the rules;
- (6) to lay on the table;

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(7) for the previous question;

(8) to limit, extend the limits of, or to close debate;

(9) to amend an undebatable motion;

(10) to divide a question;

(11) to pass business in Committee of the Whole;

(12) to take from the table;

(13) a decision of the presiding officer, unless appealed or unless he or she submits the question to the house for advice or decision; and

(14) incidental motions, such as motions relating to voting or other questions of a general procedural nature.

A question may be divided if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain.

No more than one amendment and no more than one substitute motion may be made.

### RESOLUTIONS

Resolutions, which may be introduced in either house, are divided into two categories:

(1) A simple resolution is a formalized motion passed by one house. It is used to adopt or amend the rules of one house, to make recommendations on the districting and apportionment plan, or to regulate the internal affairs of the house adopting it. A simple resolution does not require three readings or a roll call vote.

(2) A joint resolution must be adopted by both houses but is not subject to approval by the Governor. It may be used to:

(a) express a desire, opinion, sympathy, or request of the Legislature;

(b) request an interim study;

(c) adopt, amend, or repeal the Joint Rules;

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- (d) set salaries or other employment terms for legislative employees;
- (e) approve construction of a state building;
- (f) deal with disasters and emergencies;
- (g) submit a negotiated settlement of collective bargaining for public employees;
- (h) declare or terminate an energy emergency;
- (i) ratify or propose amendments to the United States Constitution; or
- (j) advise or request the repeal, amendment, or adoption of an administrative rule.

## DRAFTING AND INTRODUCTION OF BILLS

After a written request by a member of the Senate or the House, a Legislative Council staff attorney or researcher is assigned to draft a bill. However, a legislator other than the requestor may sponsor the bill when introduced. Predrafted bills submitted by a legislator are reviewed by Legislative Council staff to assure conformance with standards of format and style, and for legality.

Before 5 p.m. on December 5 preceding a regular session, the number of bills a legislator may request and preintroduce is unrestricted, but after 5 p.m. on December 5, each legislator is limited to seven bill requests and five introductions. (The limit on introductions after the opening exempts bills requested prior to the convening date; a legislator has two legislative days after receiving a completed bill to introduce it.)

Excepted from the five-bill limitation are Code Commissioner bills, standing committee bills or resolutions, or bills or resolutions requested by newly elected state officials.

The Legislative Council staff is prohibited from releasing information about a bill during the drafting stage other than the simple fact that a particular legislator has requested a bill on a specific subject. If a legislator intends that a third person be informed of the details of a bill, he or she must provide a written, signed directive to the Council.

After preparation or review by an attorney or researcher of the Legislative Council staff, which includes a legal review, editing, and proofreading, bills are stored in a sophisticated, large-capacity word processing

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system, printed, and delivered in triplicate to the requestor. The original bill cover is stamped and signed to verify Council review, and without that verification the bill may not be introduced.

Prior to the opening of the session, bills may be preintroduced, numbered, and reproduced by the staff of the Legislative Council. All preintroduced bills are available to the public.

During the session, a bill is introduced when the sponsor endorses it with his or her name and when triplicate copies are presented to the Chief Clerk of the House or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members with introduction in the house in which the legislator whose name appears first on the bill is a member. The chief joint sponsor's name appears immediately after the first chief sponsor's name. Bills, joint resolutions, and simple resolutions are numbered consecutively in the order of their filing in separate series in each house.

A bill proposed by a legislative committee or introduced by request of an administrative or executive agency or department is designated, following the names of the sponsors, "By Request of the . . . (name of agency or committee)".

Submission of drafting requests and introduction of bills and resolutions are subject to the following schedule under the Joint Rules of the 52nd Legislature:

	Request Deadline 5 p.m. Legislative <u>Day</u>	Introduction Deadline 5 p.m. Legislative <u>Day</u>
General bills and resolutions (or 2 legislative days after delivery if delivery is after 14th day)	10	14
Revenue bills	17	21
Committee bills and resolutions	36	40
Committee revenue bills	62	66

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Committee bills implementing provisions of general appropriation act	75	78
Appropriation bills	No deadline	No deadline
Interim study resolutions	No deadline	No deadline
Resolutions to express confirmation of appointments	No deadline	No deadline
Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No deadline	No deadline

Approval by the Rules Committee is necessary for introduction or reception of a bill in a house after that house has rejected during that session a bill intended to accomplish the same purpose. Failure to override a veto does not constitute final rejection.

In the Senate, introduction of a standing committee bill requires consent of at least three-fourths of the members of the committee, and in the House, the consent of two-thirds of the members of the committee is required.

### FIRST READING, REFERRAL

After introduction, a bill is required to be publicly posted by a listing of its title in the house of origin and by a summary of its title and by its history in the second house, along with an announcement of the committee to which it has been assigned. That posting serves as the first reading of the bill.

A bill may not be considered or enacted without referral to and return from a committee. The presiding officer refers each bill to a committee after introduction. In the Senate, a bill may be rereferred at any time before its passage, and in the House, it may be rereferred by a vote of not less than three-fifths of the members present and voting. A hearing by the committee is not required, but custom provides that each bill be subject to a hearing. Advance notice of a hearing is not required, but three days advance announcement is customary.

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### **SECOND READING, COMMITTEE OF THE WHOLE**

All bills and resolutions reported from committee and accepted by the house concerned, except consent calendar bills, are posted on the calendar for consideration by the Committee of the Whole on second reading (debate stage). The Committee of the Whole is presided over by another legislator appointed by the Speaker or the President.

A member may move to segregate a bill prior to the adoption of the Committee of the Whole report and after debate, and if the motion prevails, the bill remains on second reading. If a Committee of the Whole report on a bill is rejected, the bill remains on second reading.

In the Committee of the Whole, no senator may speak more than twice and no representative may speak more than once and for no more than five minutes. However, in each house, the sponsor of the bill or motion may also speak in closing.

### **THIRD READING**

Except on the last legislative day, the rules require that at least one day must intervene between any two of the required three readings of a bill. Since amendment of a bill is not permitted at this stage, changing a bill after it has reached third reading requires that it be returned to second reading for purposes of amendment. The vote on third reading determines a bill's passage or rejection and, on certain types of bills, whether it meets the requirement for more than a majority vote.

### **TRANSMITTAL DATES**

The Joint Rules of the 52nd Legislature allow the receiving house to decline to consider any bill, except appropriation or revenue bills or amendments considered by joint committees, transmitted from the house of origin after the 45th legislative day.

Amendments, except to appropriation or revenue bills, need not be accepted by the receiving house if transmitted after the 73rd legislative day.

The House may decline to consider revenue bills transmitted from the Senate after the 71st day, and the Senate may decline to consider appropriation bills transmitted from the House after the 67th day and revenue bills transmitted from the House after the 71st day. Senate

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amendments to appropriation bills need not be accepted by the House after the 80th day, and Senate amendments to House revenue bills need not be accepted by the House after the 82nd day.

A revenue bill is one that would either increase or decrease tax collections.

A joint resolution estimating revenue may not be transmitted after the 60th day, and amendments to the resolution may not be transmitted after the 82nd day.

In any of the situations noted above, the receiving house may by a vote of two-thirds of its members accept for consideration a bill transmitted after the deadline.

Immune from transmittal deadlines are interim study resolutions, bills repealing or directing the amendment or adoption of administrative rules, and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules.

### CONSENT CALENDAR

A device to reduce the congestion of measures on the floors of the houses and to speed the flow of legislative business is the consent calendar under which noncontroversial bills and simple and joint resolutions qualifying are processed according to these provisions:

(1) The legislation must be unanimously recommended "do pass" or "do pass as amended" by the members of the standing committee in attendance. A motion must be made and passed unanimously to place the legislation on the consent calendar and must be noted in the committee report. Appropriation or revenue bills are not eligible for the consent calendar.

(2) The legislation bypasses second reading, is reproduced as a third reading version, and is marked "consent calendar".

(3) After immediate posting on the consent calendar, the legislation is considered on the next legislative day under Order of Business No. 11, Special Orders of the Day, when a "reasonable time" is allowed for questions and answers upon request. No debate is allowed.

(4) If three members object in writing, the legislation is removed from the consent calendar and added to the regular second reading board.

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(5) Consent calendar legislation is voted on individually following third reading with the roll call vote regarded as final.

### STATEMENT OF INTENT

A statement of intent must be part of every introduced bill that delegates rulemaking or licensing authority, and at any time during the progress of a bill, it may be amended to add a statement of intent.

The statement of intent is used to guide the details of interpretation by those charged with implementing the bill and is phrased in terms of contingencies, examples, or other matter inappropriate for expression as statutory language. The statement of intent is subject to approval, rejection, or amendment by either house.

Lacking a two-thirds vote by a standing committee, the Committee of the Whole, or a conference committee, a statement of intent may not accompany a bill that does not statutorily require one.

### EFFECTIVE DATES

Unless a different time is prescribed therein, effective dates of legislation are:

(1) statutes other than appropriation or revenue bills—October 1 following passage and approval;

(2) appropriation bills—July 1 following passage and approval;

(3) revenue bills (changing taxes or fees) — January 1 following passage and approval;

(4) joint resolutions—on passage.

### JOURNAL

The official day-to-day record of legislative business is the journal, maintained separately by each house. Publication of the final printed and bound journals and mailing free of charge to each legislator are completed as soon as possible after final adjournment of each session.



Each bill can be tracked through the journals, which include records of votes and text of amendments adopted as well as the legislative history of each bill (including its number, title, sponsor, committee referrals, committee reports, and roll call votes). The journal also includes messages from the Governor.

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## LEGISLATIVE PUBLICATIONS

### CHAPTER IV

## LEGISLATIVE PUBLICATIONS

### SESSION LAWS

Immediately following signing by the Governor of a bill previously approved by both houses, it is filed with the Secretary of State, who assigns to each act a chapter number according to the chronological sequence of the reception by the Secretary of State's office, except resolutions, which continue to be cited by the number assigned by the House or the Senate at the time of introduction.

Publication of all the permanent laws, appropriations, and resolutions from a session of the Legislature is arranged as soon as possible by the Legislative Council in a set of volumes known generically as the "session laws" and formally under the appropriate title as Laws of Montana/ — Legislature 19—.

The session laws contain tables of Montana Code Annotated sections affected and previously uncodified laws affected, cross-references of bills and chapter numbers, tables of effective dates, and tables showing where each section of each act has been placed in the Code.

### MONTANA CODE ANNOTATED — STATUTE TEXT

"Prima facie the official laws of Montana" is the Montana Code Annotated (MCA)—which is an orderly and logical arrangement of all the laws enacted by territorial and state legislatures that have not been repealed or superseded, with the exception of certain nongeneral, nonpermanent statutes, such as severability, construction, validating, repealing, or similar provisions that do not require codification.

First adopted by the 1979 Legislature, the recodified laws known as the MCA continued but replaced the Revised Codes of Montana, 1947, which in turn had succeeded the codifications of 1935, 1921, and 1907.

Accompanying each MCA section are its statutory history, editorial notes, cross-references, and other relevant material.

The Code Commissioner, an office within the Legislative Council, compiles the newly enacted laws within the framework of the MCA. Each new law is inserted within the existing statutes in a location where it is associated with other laws pertaining to similar subjects or where its

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substantive provisions are complemented or effectuated through inter-relationship with definitions or references within that Title, chapter, or part.

If the new law deals with a subject not previously contemplated in the statutes, a completely new Title, chapter, or part may be added.

If a bill is enacted to change existing law, pertinent sections in the MCA must be amended to conform with the amendments.

A supplement to the MCA in 10 volumes in separate and accompanying looseleaf binders is the Montana Code Annotated Annotations, arranged in separate removable booklets, each containing an individual Title. The Annotations contain references to administrative rules, summaries of Supreme Court decisions and Attorney General's opinions, law review articles relating to the Code, and other collateral references, such as to legal encyclopedias, model acts, and relevant publications. The Annotations include other helpful resources, such as tables of corresponding sections allowing the tracking of particular items of law from one generation of the state codes to another or from Uniform laws to Montana laws, a table of session laws showing the locations in the Code of the chapters of the session laws since 1909, a table showing the location of the pre-1973 criminal code provisions, descriptions of county boundaries, the Declaration of Independence, the United States Constitution, the Montana Constitution of 1889, and pertinent federal acts, e.g., "The Enabling Act" and "Ordinances No. 1 and No. 2".

A four-volume index to the MCA and the Montana Constitution provides the user with a convenient reference, by subject, to all material codified. Also included are a Words and Phrases Index, a comprehensive listing of each word or phrase defined in the Code; and a Popular Name Index, a listing by short title or popular name, with a citation to code location, of each act or group of sections having a short title or popular name.

A complete set of the MCA, upon publication after the regular session, is available to each legislator at a cost of \$10, which covers only the shipping cost. Orders may be placed with the Legislative Council.

### LEGISLATIVE REVIEW — FINAL STATUS

The Legislative Review and the History and Final Status are a pair of useful compendiums published by the Legislative Council after the adjournment of each regular session.

The Legislative Review publishes the title of every bill passed and approved, including each appropriation and resolution. Legislation, including appropriations, is arranged in sequence according to session law chapter number, except for resolutions, which are arranged in sequence according to bill number. Also included are tables of affected MCA sections and affected session laws, a table of session law chapters to MCA sections, a table of effective dates, and tables of bill numbers to chapter numbers and chapter numbers to bill numbers.

The History and Final Status details the history of each bill or resolution introduced, including committee referrals and hearing dates, the stages of its progress through the session with recorded votes, and its final disposition. Senate and House bills are segregated and arranged in sequence, matching the numbers assigned upon introduction. A table of effective dates of all acts is included.

Detailed subject indexing in both the Legislative Review and the History and Final Status provides easy reference.

The Legislative Council has published Sources of Information on Publications, a complete guide to all information resources for legislators and interested persons both during and after a legislative session. A copy may be obtained from the Legislative Council.

## A LEGISLATOR'S HANDBOOK

## INTERIM ACTIVITY

### CHAPTER V

## INTERIM ACTIVITY

The regular biennial legislative session occupies only about one-sixth of the lifespan of a Legislature. The members do not escape from legislative responsibilities, however, during the 20 months until the convening of a new Legislature. In addition to special sessions that called the entire Legislature to Helena several times in recent years, numerous statutory committees, interim study committees, and national legislative research organizations have kept many members' attention and energy focused on between-sessions work. This chapter provides an overview of those interim activities.

### STUDY COMMITTEES

The formation and function of an interim committee were explained a number of years ago by Robert Person, then director of the Legislative Council's Research and Reference Services Division, in the Interim Directory of Legislative Committees. These details are excerpted from that explanation and are still apropos:

#### Inception of an Interim Study Subcommittee

A study is first requested in a Joint Resolution adopted by the Legislature. Section 5-5-217, MCA, requires the Legislative Council to prepare a list of study resolutions adopted and distribute it to all the legislators for their votes on priority of study immediately after the session. Following the requirements of the same section of law, after prioritization, the Legislative Council designates the subcommittees to which studies are to be assigned, and the Speaker and the Committee on Committees then appoint members. Section 5-5-211, MCA, provides that four members of each house be appointed. No more than two members from a house may be from one political party.

#### Assignment of Staff

The Research and Reference Services Division of the Legislative Council has primary responsibility for providing staff support to the interim subcommittees. A principal staff member is assigned to each subcommittee from among the research staff. The Council assigns one of the staff attor-

## A LEGISLATOR'S HANDBOOK

neys from the Legal Services Division to provide legal support to the principal staffer and to the subcommittee. The Legislative Council is further authorized by 5-11-111, MCA, to employ the services of any research agency it considers necessary to discharge its duties.

### Calling the First Meeting

Tradition and protocol have dictated that the senior senator appointed to the interim subcommittee will serve as acting chairman for the purpose of calling the first meeting and presiding over the selection of a permanent chairman. In practice, the acting chairman and staff work together to find a date as convenient as possible for the members and staff.

### Selecting the Chair

The selection of subcommittee officers is the first order of business for an interim subcommittee. The chairman and vice-chairman may not be members of the same political party.

### Conducting the Study

The study, its direction, content, and conclusions are those of the subcommittee rather than the staff. Staff members assist the subcommittee to accomplish the interim study purpose of pursuing assigned public policy questions so as to discover all facts relevant to the question, to discuss and evaluate those facts, and to formulate policy recommendations representing the synthesis of those facts and political judgments. It is a duty of staff to present a proposed study design and work plan to the subcommittee for its consideration at the first meeting, but it is a subcommittee responsibility to adopt a plan and a subcommittee prerogative as to what the plan contains.

### Subcommittee Budget

The number of meetings a subcommittee can hold depends on its budget. Its budget is a share of the total appropriated to the Legislative Council to support such activities. The



## INTERIM ACTIVITY

Legislative Council considers the preliminary study and work plan for each subcommittee and allocates a budget for each accordingly.

### Submission of Final Report

At the completion of a study the staff will prepare a final report for the subcommittee that will contain a recount of what the subcommittee found in its study, supporting documents as required, and copies of legislation recommended for adoption by the subcommittee. Sufficient copies are printed to meet the anticipated demand for distribution to the Legislature and members of the public, as well as to libraries and interstate groups.

Complete lists of the membership of interim committees and an explanation of their tasks are included in the Interim Directory of Legislative Committees, a copy of which may be obtained from the Legislative Council.

For members who are interested in serving on interim committees, the following is a complete listing of statutory committees whose memberships will be chosen from the 1993 legislators:

### APPOINTMENT ROSTER FOR 1993 LEGISLATURE

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Committee to Be Appointed	Deadline for Appointment	Appointing Authority, Number of Members	See MCA Cite for Details
<hr/>			
• Environmental Quality Council	Before 50th Day	Speaker (4) Comm. on Comms. (4) Public Member/Speaker (2) Public Member/Pres. Sen. (2) *See endnote on appt. of public members	5-16-101 5-16-103 thru 5-16-105
• Legislative Council	By 50th Day	Speaker (4) Comm. on Comms. (4)	5-11-101 thru 5-11-104

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• Legislative Finance Comm.	By end of session	Chr. Sen. Fin. Comm. (4) Comm. on Comms. (2) Chr. House Approp. Comm. (4) Speaker (2)	5-12-202 thru 5-12-204
• Legislative Audit Comm.	Before 60th Day	Speaker (4) Comm. on Comms. (4)	5-13-202
• Legislative Consumer Comm.	Before 60th Day	Speaker (2) Comm. on Comms. (2) **See endnote	5-15-101 thru 5-15-105
• Administrative Code Comm.	Before 60th Day	Speaker (4) Comm. on Comms. (4)	5-14-101 thru 5-14-104
• Revenue Oversight Comm.	Before 90th Day	Comm. on Comms. consults with Chr. Sen. Tax Comm. & Minor. Ldr. (6) Speaker consults with Chr. House Tax Comm. & Minor. Ldr. (6)	5-18-102 thru 5-18-105
• Coal Tax Oversight Subcomm.	No deadline	Speaker (2) Comm. on Comms. (2)	5-18-201
• Capitol Bldg. & Planning Comm.	No deadline	Speaker (2) Comm. on Comms. (2)	5-17-101
• Legislative (Lottery) Liaison Comm.	No deadline	Speaker (2) Comm. on Comms. (2) ***See Endnote	23-5-1008
• Gaming Advisory Council	End of each member's three-year term	Speaker (1) Comm. on Comms. (1)	2-15-2021
• Energy Policy Comm.	By 15th Day after session	Pres. Sen. (1) Sen. Minor. Ldr. (1) Speaker (1) House Minor. Ldr. (1)	90-4-303
• Water Policy Comm.	No deadline	Speaker (4) Comm. on Comms. (4)	85-2-105
• Mont.-West. Canad. Prov. Boundary Advis. Comm.	No deadline	Legislative Council (4) Governor (4)	1-13-101 thru 1-13-111
• Council of State Governments (CSG)	Upon request of CSG	Legislative Council	5-11-301

• National Conf. of State Legislatures (NCSL)	Upon request of NCSL	Legislative Council	5-11-301
• Pacific Northwest Economic Region	No deadline	Speaker (1) Pres. Sen. (1) Sen. Min. Ldr. (1) House Min. Ldr. (1)	5-11-703
• Comm. on Indian Affairs	By end of session	Speaker (2) Comm. on Comms. (2)	5-19-101 thru 5-19-108

\*Chapter 142, L. 1987, amended 5-16-104, MCA, to require vacancies to be noticed in the following manner:

(2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

(b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor, who may publish the notice in an appropriate publication.

Term limited to 6 years.

\*\*5-15-102. Ineligibility for appointment.

Any person who is an employee, agent, officer, partner, or director of any regulated company or who has served a regulated company in any capacity within the 3 years previous to his appointment may not be a member of the committee.

\*\*\*23-5-1008. Ineligibility for appointment.

No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

## A LEGISLATOR'S HANDBOOK

## CHAPTER VI

### NEWS MEDIA

As mentioned in Chapter II, ADMINISTRATIVE NUTS AND BOLTS, typists are available for dictating and typing of news releases.

For your information, the following news media cover the Legislature:

<u>News Service</u>	<u>Helena Address</u>	<u>Phone No.</u>
Associated Press: Bob Anez Len Iwanski	P.O. Box 5810	449-5542 442-7440
Lee Newspapers: Charles S. Johnson	P.O. Box 1676 Capitol One Center Suite 204 208 North Montana	443-4920 Fax 443-0034
Great Falls Tribune: Capitol Bureau	104 Broadway	442-9493
KTVH-TV NEWS: Michelle Cork Karen Sullivan Drew Sugars Jay Korff Melissa Anderson	2433 Montana Ave.	443-5050
MTN NEWS	P.O. Box 213 Capitol Station	442-4641
KULR-TV, Straight 8: Theresa Reardon Capitol Bureau Chief	P.O. Box 5779 Room 2 State Capitol	443-6390
KUFM PUBLIC RADIO	Room 2 State Capitol	444-5211

## A LEGISLATOR'S HANDBOOK

The pressroom in the State Capitol is located in Room 329. The reporters may also be contacted at the press table in each house.

Accredited press representatives may not be excluded from any public legislative meeting or hearing and may not be prohibited from photographing, televising, or recording the committee or house hearings subject to the discretion of the presiding officer in all matters of decorum and order.

To gain access to the Senate floor, media members must register in the office of the Secretary of the Senate and will receive a media identification card.

## LEGISLATIVE INTERNS AND AIDES

### CHAPTER VII

## LEGISLATIVE INTERNS AND AIDES

The Legislature has provided a program for college students as a means of better informing them about the Legislative Branch, its process of lawmaking, and the responsibilities involved.

### LEGISLATIVE INTERNS

The official legislative intern program was initiated in 1967 under Senate Resolution 1 of the Extraordinary Session. Seven to 11 interns have served each session since that time.

In 1974, the Legislature enacted the "Legislative Intern Act of 1974" (Title 5, chapter 6, MCA). This Act provides for one intern from each unit of the state institutions of higher education; an additional five interns may be chosen from applications submitted by the college presidents—a total of 11 interns. Each intern serves for 10 weeks during the regular session.

The legislative interns must meet the following qualifications:

- (1) studied at least one quarter of "state government" or its equivalent as a course of study at an institution of higher learning;
- (2) reached at least the level of a junior at an institution of higher learning; and
- (3) exhibit the necessary degree of scholastic achievement, leadership, and involvement in community affairs.

Preference must be given to Montana high school graduates.

Each intern is assigned to a legislator (sponsor) by the Legislative Council. The sponsor provides the immediate supervision of the intern for duties performed.

A copy of the legislative intern guidelines has been printed at the end of this chapter.

Applications for selection as an official legislative intern are available in September before a session through the intern coordinator at each Montana college or university, and completed applications must be returned to the Legislative Council.

## A LEGISLATOR'S HANDBOOK

Many other interns work during a legislative session who are not sponsored by the Legislature; rather they are participants in programs offered by educational institutions or private entities. A leader in this activity is the University of Montana Cooperative Education Internship Program, which offers students in many academic disciplines the opportunity to gain practical experience related to their study programs. Information is available from the University of Montana.

Some interns receive stipends from the organization or individual they serve. Official legislative interns do not receive a stipend.

### **GUIDELINES FOR THE MONTANA LEGISLATIVE INTERN PROGRAM**

These general policy guidelines establish the duties and responsibilities of both the interns and their sponsors as provided in Title 5, chapter 6, MCA, the "Legislative Intern Act of 1974".

**Purpose.** The purpose of the Legislative Intern Program is to provide to advanced students at units of the Montana University System a working knowledge of representative government through observation of the Montana Legislature during its regular sessions.

**Administration and Supervision.** The intern program is administered and supervised by the Legislative Council. Questions or comments should be directed to the Legislative Council Chairman or to the Executive Director.

**Term of Service.** Each legislative intern serves for 10 weeks during the regular session of the Legislature.

**Number of Interns – Selection.** Interns will be named by the presidents of the following six units of higher education:

University of Montana	1 intern
Montana State University	1 intern
Eastern Montana College	1 intern
Northern Montana College	1 intern
Western Montana College	1 intern
Montana College of Mineral Science and Technology	1 intern

Private colleges of higher education in the state may also establish an intern program. Five additional interns (making a total of 11 interns) may be chosen from applications submitted to the Legislative Council from the private colleges and/or the six state units specified above.



## LEGISLATIVE INTERNS AND AIDES

Intern Qualifications. The following qualifications are required:

- (1) at least one quarter of "state government" or its equivalent as a course of study at an institution of higher learning;
- (2) at least the level of a junior in college; and
- (3) the necessary degree of scholastic achievement, leadership, and involvement in community affairs.

Montana high school graduates will be given preference.

Enrollment in a particular academic discipline is not a requirement for participation in the intern program. Students from all academic disciplines are encouraged to apply.

Assignment. Each intern will be assigned to a legislator (sponsor) by the Legislative Council. The sponsor is to provide the immediate supervision of the intern for duties performed.

Duties/Responsibilities to Be Performed by Intern for Sponsor. In addition to the contribution the intern makes in performing a legislative staff task, the following duties may be assigned at the discretion of the sponsor:

- (1) analyze and summarize bills;
- (2) research specifically assigned projects;
- (3) draft committee statements or speech to be given by sponsor to citizen group, etc.;
- (4) draft amendments to bills;
- (5) answer constituent mail;
- (6) prepare a daily agenda of bills of particular interest to sponsor;
- (7) prepare a daily agenda of bills to be heard in committees of which the sponsor is a member;
- (8) keep sponsor's bill books and records up to date; and
- (9) assist sponsor in any way possible by gathering information and making necessary phone calls and appointments.

## A LEGISLATOR'S HANDBOOK

Interns will not be allowed to attend political party caucuses or other privileged political meetings called by party leadership during the session unless the sponsor obtains consent of the caucus.

All unassigned research projects conducted by interns for their own use must be approved by their legislative sponsors.

All unassigned research projects conducted by interns that might be printed or otherwise released to the general public must be approved by the Legislative Council.

Lobbying by interns on particular bills or issues will not be allowed. Interns are not to solicit votes from other legislators in favor of or in opposition to any bill, amendment, or issue before the Legislature.

Sponsor's Responsibilities. Legislators to whom interns are assigned should attempt to expose the intern to all steps in the legislative process as follows:

- (1) initial organization and opening day procedures;
- (2) standing committee procedures;
- (3) relationship of the legislators to lobbyists, executive officials, constituents, representatives of the news media, and other legislators;
- (4) research techniques;
- (5) public hearings;
- (6) legislative leadership procedures;
- (7) duties of legislative employees;
- (8) the entire bill process, including the mechanics of a veto by the Governor; and
- (9) services provided by legislators for constituents.

Legislative sponsors are responsible for providing the intern with an education in the total legislative process.

Any problems arising between the sponsor and the intern should be referred to the Legislative Council Chairman or Executive Director.

An intern's supervising professor may contact the sponsor for periodic reports.

## **LEGISLATIVE AIDES**

Legislative aides have, in the past, been chosen by individual legislators to work as private aides. The reimbursement of expenses is the responsibility of the legislator. The Legislature provides no funds for payment of aides.

Aides are required by Joint Rule to register with the Clerk of the House or the Secretary of the Senate and are issued distinctive identification, such as name tags. An aide must be of legal age unless otherwise approved by the presiding officer.

The responsibility of an aide is to the sponsoring legislator to do whatever is agreed between the legislator and the aide. No member may designate more than one aide without approval of the Rules Committee of the house in which he or she serves.

## A LEGISLATOR'S HANDBOOK

## **CHAPTER VIII**

### **SERVICES TO CONSTITUENTS**

Various personnel and methods are made available to constituents so they may be kept fully informed of legislative activities and issues.

#### **LEGISLATIVE INFORMATION OFFICE**

The Legislative Information Office is under the supervision of the Legislative Council and is located in the Capitol Rotunda, second floor. The purpose of this office is to answer inquiries of citizens concerning legislative activities, including status of a bill, committee hearings, etc.

#### **GUIDE SERVICE — MONTANA HISTORICAL SOCIETY**

The Montana Historical Society conducts guided tours for students and other visitors. The Legislative Information Office advises legislators when schools are visiting from their respective districts.

#### **SECRETARY OF THE SENATE — CHIEF CLERK OF THE HOUSE**

The staff in these offices can provide information on the status of a particular piece of legislation, the schedule of standing committee hearings, and recorded votes.

The Secretary of the Senate and the Chief Clerk of the House are the chief administrative officers of the two bodies. They are responsible for receiving introduced bills from legislators, organizing the floor business for each house at the direction of the President or Speaker, transmitting bills to assigned committees, receiving bills from committees, and transmitting approved bills to the other house or to the Governor.

#### **WITNESSES AT A STANDING COMMITTEE HEARING**

Information of value to a constituent who wishes to appear as a proponent or opponent of a bill in standing committee is detailed in Chapter X, STANDING COMMITTEE PROCEDURES. A legislator may also want to talk with the committee chairman before a bill is to be heard for additional information on a particular hearing.

## A LEGISLATOR'S HANDBOOK

### **MAILING BILLS TO CONSTITUENTS**

Because of the costs involved, copies of all bills are not ordinarily mailed to constituents. However, bills of particular interest may be mailed in the same manner as other outgoing mail.

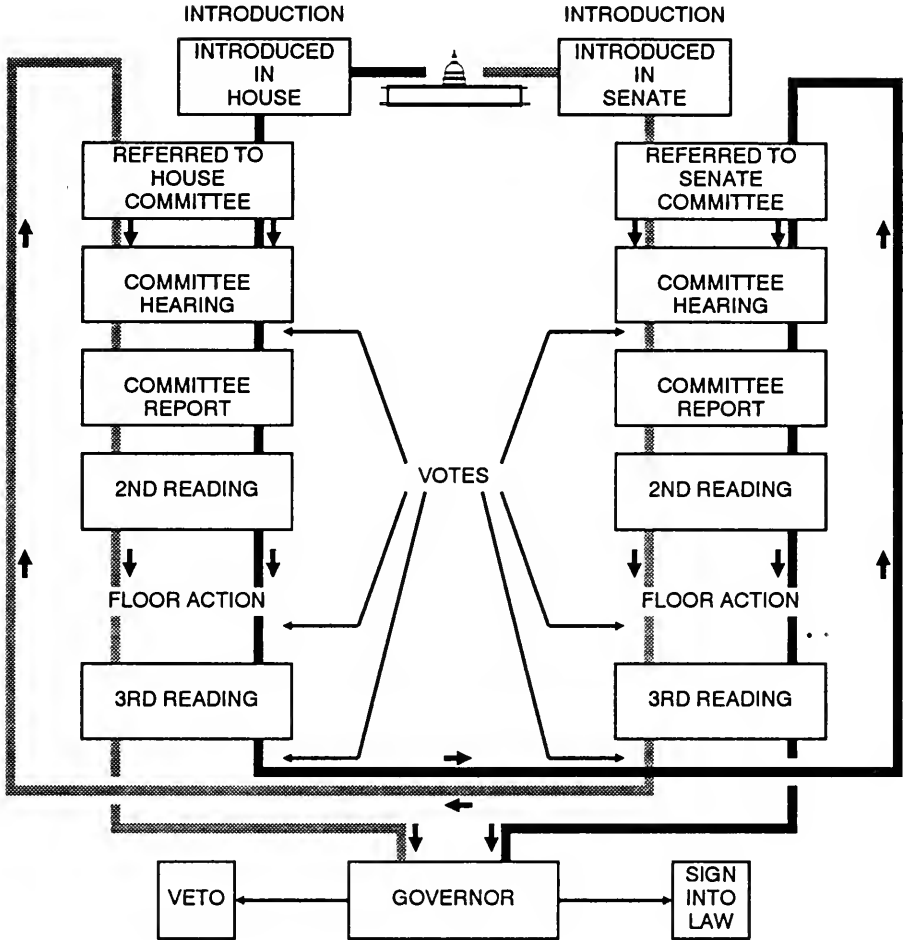
Copies of all bills and other legislative proceedings, such as journals and status sheets, are mailed daily to all County Clerks. Interested persons may read the legislative proceedings at their County Clerk's office.

Constituents may also subscribe to receive proceedings.

## HOW A BILL BECOMES A LAW

### CHAPTER IX

## HOW A BILL BECOMES A LAW



## HOW A BILL BECOMES A LAW

The following 23-step description provides a narrative detail of how a bill becomes law.

## A LEGISLATOR'S HANDBOOK

Step 1. Introduction. Bill is filed for introduction with Chief Clerk of the House or Secretary of the Senate.

Step 2. First reading. Bill's title is posted, and bill is ordered printed on white paper.

Step 3. Committee reference. Bill is referred to proper committee by House Speaker or Senate President. Referral is posted.

Step 4. Committee consideration. Committee holds public hearing on bill, then discusses it. May vote to amend bill.

Step 5. Committee report. Committee reports its recommendation that bill "do pass", "do pass as amended", or "do not pass".

Step 6. Placed on calendar. Simple "do pass" and "do not pass" reports are printed as such in the journal. The text of amendments reported by the committee is printed in full. Bills receiving favorable reports are printed on yellow paper, incorporating any reported amendments, and placed on calendar for second reading. Bills with "do not pass" reports are not placed on the second reading calendar unless a motion is made to that effect and passed. If "do not pass" report is adopted, bill drops out of further consideration.

Step 7. Second reading. Entire body debates bill as the "Committee of the Whole". Amendments may be offered and voted on. Bill defeated here drops out of further consideration.

Step 8. Placed on third reading calendar. Bill approved by Committee of the Whole is ordered printed on blue paper, incorporating all amendments made up to that point. (This is known as an "engrossed" bill.)

Step 9. Third reading. Bill subjected to a simple "yes" or "no" vote by entire body, in which (by constitutional requirement) each member's vote must be recorded and printed in the journal. No amendments may be considered. Bill defeated here drops out of further consideration.

Step 10. Transmittal to other house. Same as Step 1 introduction, except the other house works with the blue copy.

Step 11. First reading. Summary of title and history is posted.

Step 12. Committee reference. See Step 3.

Step 13. Committee consideration. See Step 4.



**Step 14.** Committee report. Second-house committee phrases a favorable report as "be concurred in" or "be concurred in, as amended". Unfavorable report is "be not concurred in".

**Step 15.** Placed on calendar. Same as Step 6, except that instead of a yellow-paper copy, the bill is prepared for second reading with committee amendments printed on green (House) or pink (Senate) sheets. Bill with unfavorable report is not placed on calendar unless the committee recommendation is reversed by the full body. Bill as a whole is not revised.

**Step 16.** Second reading. Same as Step 7.

**Step 17.** Placed on third reading calendar. Same as Step 8, except reference bill is reprinted on salmon-colored paper to include all amendments made in second house.

**Step 18.** Third reading. Same as Step 9.

**Step 19.** Bill passed by both houses in identical form. Enrolled and sent to Governor.

**Step 20.** Bill passed by both houses in differing forms:

The second house returns a bill to the house of origin approved with amendments, sent with a message requesting concurrence in the amendments.

The question is voted in the Committee of the Whole, e.g., "Shall the (Senate) amendments to (House) Bill No. \_\_\_ be concurred in?" If the vote in the house of origin is in favor of concurrence, the bill is enrolled.

If a motion is made and adopted that the amendments not be concurred in, the originating house will usually request a conference committee (or it may send a message to the second house asking it to recede from its amendments). If a conference is sought, a motion is made to authorize the House Speaker or Senate President to appoint a conference committee (regular or free) to meet with a like committee from the other house to resolve the differences. (Regular conference committees may consider only the disputed amendments; free conference committees may revise any part of the bill.) This action, if approved, is communicated to the second house in a message, and the second house then appoints a conference committee in the same manner.

## A LEGISLATOR'S HANDBOOK

**Step 21.** Conference committee reports. If conferees settle differences, each contingent reports to its parent body that the bill be further amended in some fashion or that one house recede from amendments and that the bill then be approved. Adoption of the report means the house approves the bill as the conferees recommend.

If conferees cannot settle differences, they report their disagreement and either body may ask that a new conference committee be appointed.

**Step 22.** Enrolling. Bill is checked for accuracy and printed and backed in a cover containing the history of the bill. The correctly enrolled bill is delivered to the presiding officer of the house in which the bill originated. After being signed and recorded in the journal, the bill is transmitted to the other house where the same procedure is followed.

**Step 23.** Governor's desk. Governor either signs or vetoes bill or allows it to become law without his or her signature. Legislature may vote to override a veto if it has not adjourned. (Refer to Montana Constitution, Article VI, section 10.)

### COLOR CODED BILL SEQUENCE

The progress of a bill in its journey through the legislative process can be tracked by the color of paper on which a bill is printed at any stage:

WHITE - Introduced Bill

YELLOW - Second Reading Bill

BLUE - Third Reading Bill

SALMON - Reference Bill (Third Reading in second house)

IVORY - Reference Bill with later amendments (conference committee or Governor's amendments)

GOLDENROD - Original Fiscal Note

CHERRY - Amended Fiscal Note

Committee amendments in the second house for second reading consideration are printed on either:

GREEN - in the House

PINK - in the Senate

## STANDING COMMITTEE PROCEDURES

### CHAPTER X

## STANDING COMMITTEE PROCEDURES

### COMMITTEES IN THE MONTANA LEGISLATURE

Although the committee system has not been as powerful in Montana as it is in Congress, the committees perform essential functions in reviewing, analyzing, amending, and recommending that bills pass or do not pass. Regardless of the committee's recommendation, each bill is scrutinized in each house, but because the committee system is the essence of the legislative process, the new legislator needs to understand the workings and personnel of the committees and some points of etiquette when a bill he or she introduces is the subject of a committee hearing.

### WHAT GETS DONE IN COMMITTEE

#### Hearing Witnesses

When a hearing is held on a bill, the chairman calls for the proponents of the bill to identify themselves and present their statements. It is customary for the legislator sponsoring the bill to speak first. The sponsor may introduce the constituent, lobbyist, or other person who has brought the bill or the problem to the sponsor's attention and who is present to testify. After all proponents have been heard, the chairman will invite opponents, if any are present, to testify. The secretary has each witness, including the sponsor, complete a short registration form. When the opponents have finished, the chairman may give the proponents several minutes for rebuttal testimony. Committee members may question a witness either at the close of the witness's testimony or at the close of all testimony, depending on the chairman's ground rules.

Advice on how proponents or opponents of bills can be most effective in their appearances before committees is contained in Having Your Say Before Montana Legislative Committees, a pamphlet that may be obtained from the Legislative Council or, during a session, at the Legislative Information Desk in the Rotunda.

#### Revising and Amending Bills

A committee member may, when questioning a witness, ask the witness if a problem in the bill could be cured by an amendment that the member spells out. However, it is customary to move an amendment in the committee's executive session after the close of testimony. (Contrary to

## A LEGISLATOR'S HANDBOOK

its commonly understood definition, "executive session" in the legislative lexicon does not mean a closed or private session, which is prohibited by the Montana Constitution. A committee's executive session is open to observation by all persons, but only committee members participate in the discussion except when a member, with the chairman's permission, requests another person to provide information.) The committee, in passing on the motion, may instruct the committee staff person to write up the amendment in the proper form.

Amendments developed by a subcommittee should be distributed to the full committee at an executive session designated by the chairman for the report of the subcommittee. A subcommittee member will usually move the adoption of the subcommittee's recommendations following discussion of the subcommittee's report.

Information about preparing amendments is contained in the Bill Drafting Manual available from the Legislative Council.

### Disposing of Bills

After the hearing and executive session discussion, which may include consideration of amendments or subcommittee reports, a member will say, "Mr. Chairman, I move that (House) (Senate) Bill No. \_\_\_ do (or do not) pass." Sometimes a member disagreeing with this position will then say, "Mr. Chairman, I move that (House) (Senate) Bill No. \_\_\_ do not (or do) pass." By the parliamentary procedure rules, the substitute motion, if offered, is voted on first. The chairman may announce that without objection the vote on the substitute motion is considered the reverse of the vote on the main motion. (It is possible but rare that a member, feeling that a bill should be further refined before a recommendation is made to the full body for "do pass" or "do not pass", would vote against both motions.) If amendments to the bill have been adopted by the committee, then the motion is "do pass, as amended" or "do not pass, as amended".

### Reporting Action to Full Body

A committee, or its majority, makes one of four recommendations to its parent branch. If the bill was introduced in the same body, the committee reports that the bill "do pass" or "do not pass". If the bill has been passed by the other body, the committee recommends that it "be concurred in" or "not be concurred in". "As amended" should be added in each of the four reports if amendments have been adopted by the committee.

## STANDING COMMITTEE PROCEDURES

The procedures of the Senate and House differ in cases where a committee report is controversial. In the Senate, a unanimous committee report is usually the end of the matter, but if a minority of the committee wishes to file a minority committee report, both reports (e.g., "do pass" and "do not pass") are placed before the body and debated under committee reports. In the House, only the prevailing position is posted and, if that position is "do not pass", a majority of members who object may place the issue on the second reading calendar and debate it.

When a committee brings to the floor a bill that originated in the other body, naturally the sponsor cannot be present to explain and carry the bill. In this situation, the committee chairman appoints a member to carry the bill when the committee decides that the bill should "be concurred in". A committee member so designated should consult with the sponsor for background information so that he or she can explain the bill on the floor. Additional information may be obtained from the committee staff person.

### Conference Committees

When the second house amends a bill and the two bodies are unable to reconcile their versions of the bill on the floor, the leadership will appoint three Senators and three Representatives, usually from the committees that considered the bill, to be conferees. Some conference committees meet with full formality. Toward the end of the session, some committees may not physically meet at all because of the press of time and the difficulty in scheduling a formal meeting. In these cases, the sponsor (or a proponent of the bill) contacts the various conferees individually with the proposed compromise language and collects the signatures on the report.

## WHO DOES WHAT IN COMMITTEE

### Committee Chairman

The chairman is designated by the leadership and under the Joint Rules has general control and direction of the hall and committee room.

The chairman decides the scheduling of bill hearings and sets the agenda for each meeting and ground rules for hearings. For example, he or she may allocate 40 minutes for testimony to be divided equally between proponents and opponents. He or she may appoint a subcommittee, either pursuant to a motion adopted or on his or her own initiative, to do further work on a bill. The chairman always controls the floor during committee discussion and members speak only after recognition by the chairman.

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### Committee Vice Chairman

The vice chairman is selected by the Speaker of the House or Senate Committee on Committees. He or she presides over meetings when the chairman is absent. The vice chairman usually presides over a hearing on a bill that the chairman has sponsored and that the chairman is presenting.

### Committee Secretary

The secretary's duties include keeping minutes of meetings, registering witnesses who testify, recording committee votes, notifying bill sponsors of hearings, and typing committee reports and amendments. The secretary also maintains a book for each member, which contains a copy of each bill referred to the committee and a copy of each fiscal note prepared for those bills.

### Committee Staff Person

By tradition, an attorney or researcher from the Legislative Council staff is generally assigned to a committee by the Council Executive Director, with the concurrence of the committee chairman. The Senate Committee on Finance and Claims and the House Committee on Appropriations are staffed by the Office of the Legislative Fiscal Analyst. The Committees on Natural Resources are staffed by personnel of the Environmental Quality Council. The staff person's duties include drafting amendments to bills before the committee as requested by members of subcommittees, reviewing bills for technical or constitutional problems, and conducting research for subcommittees or individual members.

## **ETIQUETTE FOR SPONSOR BEFORE COMMITTEE**

The most elementary courtesy a sponsor can show a committee is to be present promptly at the time his or her bill is scheduled to be heard. If a sponsor cannot appear at a scheduled hearing on his or her bill, the sponsor should notify the chairman of the committee as early as possible. A chairman does not enjoy announcing the postponement of a hearing to a room full of people who have come to testify on that bill. A change of dates should be posted several days in advance to avoid inconvenience.

If a sponsor wishes to bring a number of people to speak as proponents, he or she should know whether their statements would be similar and take steps to avoid repetitious testimony. It is sufficient for a witness who

would be repeating another's statement to give his or her name and address and state his or her concurrence. The committee members will appreciate this.

A sponsor's etiquette may also be involved in special situations as follows:

### Written Statements

If a sponsor or witness wishes to submit a written statement to the committee, it will be most effective if a copy is made for each member and each copy is punched to fit a three-ring binder, so each member may insert the statement into his or her bill book. A single copy, if submitted, will be preserved with the minutes by the secretary, but the individual members will not have time to give it more than a cursory glance.

### Graphic Presentations

If equipment such as a blackboard, chalk, easel, slide projector, overhead projector, or screen is to be employed, the committee secretary should be notified the day before the hearing to make sure the necessary equipment is available.

### Reference to Codes

The effect of some bills may be understood only by referring to sections of existing law not set forth in the bill. All committee rooms have sets of the Montana Code Annotated.

### Scheduling

If a sponsor approaches a committee chairman with a hearing date request, he or she should be aware of the considerations affecting the chairman's scheduling decisions. These include:

(1) degree of controversy: A chairman will try to schedule perhaps four or five bills on a day if they are expected to be relatively noncontroversial or to hear only one or two bills if sharp arguments are expected to develop at the hearing.

(2) degree of complexity: A long or complicated bill may require all of the two hours a committee usually has for hearings, while a short and simple one, even if controversial, can usually be heard in a fraction of this time.

## A LEGISLATOR'S HANDBOOK

(3) number of expected witnesses: If a large turnout is expected, a chairman sometimes makes special arrangements for hearing the bill in a space larger than the committee room, such as the chamber of the House or Senate. Hearings in either chamber must be held in the evening. Other rooms and auditoriums in the Capitol Complex may also be used for hearings. Arrangements should be made through the Secretary of the Senate or the Chief Clerk of the House.

(4) subject matter affinity: A chairman may try to hear bills on the same subject together, since the committee may have to choose between these bills. The sponsors of separate bills on the same subject should try to coordinate their scheduling requests.



# **CHAPTER XI**

## **FISCAL NOTES**

A fiscal note is an analysis of a bill's dollar impact on state or local revenues, expenditures, or financial liability. The notes are prepared by the executive Office of Budget and Program Planning, in cooperation with agencies affected by the bill, within six days of the request unless more time is granted by the presiding officer.

Procedures governing fiscal notes are encompassed in the Joint Rules and codified in Title 5, chapter 4, part 2, MCA.

All bills reported out of a committee having a fiscal impact and not carrying specific dollar appropriations must include a fiscal note.

The Legislative Council staff indicates at the top of each bill prepared for introduction whether or not a fiscal note is necessary.

Fiscal notes are then requested by the presiding officer of either house who determines the need for the note at the time of introduction based upon the Council's recommendation.

A fiscal note also may be requested on a bill and on an amendment by: a committee considering the bill; a majority of the members of the house in which the bill is to be considered at the time of second reading; or the chief sponsor through the presiding officer.

A fiscal note shows, where possible, in dollar amounts the estimated increase or decrease in revenues or expenditures, costs that may be absorbed without additional funds, long-range financial implications, and technical problems with the language of the bill. No comment or opinion of the merits of the bill is permitted on the fiscal note.

Section 5-4-204, MCA, allows the bill's sponsor to prepare his or her own fiscal note if he or she does not concur with that provided by the Budget Office.

Completed fiscal notes are referred to the committee considering the bill, and copies are printed and placed on the members' desks.

Background information used in developing a fiscal note can be obtained directly from the Office of Budget and Program Planning.

## A LEGISLATOR'S HANDBOOK

If a fiscal note accompanies a bill, the date of request and the date of receipt are indicated on the bill status and history.

The fiscal note is printed on goldenrod paper to be easily recognizable.

The following is a sample fiscal note that typifies fiscal notes prepared for legislation having an effect on revenue and expenditures, respectively.

## LOBBYING AND LOBBYISTS

### CHAPTER XII

## LOBBYING AND LOBBYISTS

A legislator is exposed to a variety of bills having potential effect on the private, business, and public lives of all Montanans. The intense focus of the possibilities for change, which a legislative session represents, generates conflict among proponents and opponents of that change. Responding to this conflict, private citizens, public officials, and representatives of diverse groups seek to influence legislators in their decisions on legislation and other policy matters—an activity known generally as lobbying. This chapter discusses distinctions among types of lobbyists, legal requirements covering lobbying, and general information about lobbying.

A lobbyist is a person who seeks to influence legislation whether for pay or on a regular basis as a volunteer, but a private citizen who infrequently attempts to communicate with a legislator is not usually considered a lobbyist in the generally understood sense of the word. The usually full-time nature of a lobbyist's job distinguishes a recognized professional lobbyist from a private citizen.

Montana law formally defines lobbying and makes certain demands on lobbyists. For the purpose of the Lobbyist Registration and License Law (Chapter 157, Laws of 1959, and later amendments, particularly Initiative No. 85, approved in 1980, and Chapter 568, Laws of 1983; Title 5, chapter 7, MCA), a lobbyist is a person who, for hire, engages in the practice of promoting or opposing the introduction or enactment of legislation or who spends \$1,000 or more a calendar year, exclusive of personal travel and living expenses, in "promoting or opposing official action by any public official". Under the law, "lobbyist" does not include a citizen who receives no reimbursement or is reimbursed only for personal living and travel expenses of less than \$1,000 for his or her efforts to influence a legislator, a public official acting in his or her official capacity, or a person who appears exclusively before legislative committees.

A person or group that pays \$1,000 or more a calendar year to engage a lobbyist is known as a "principal". Principals reflect the total range of persons and groups having a pecuniary or policy interest in legislation, including corporations; cooperatives; public utilities; associations of private individuals, businesses, or industries; associations of public officials or governments; or any other special or public interest. A lobbyist may represent more than one principal.

## A LEGISLATOR'S HANDBOOK

The law requires both the lobbyist and the principal to register with the Commissioner of Political Practices who keeps a current list, or docket, of lobbyists and their principals. Any citizen may inspect the docket during normal business hours. In addition, the Commissioner provides a copy of the docket to each member of the Legislature and updates it every Tuesday during the legislative session.

"Lobbying" is defined (5-7-102, MCA) as "promoting or opposing the introduction or enactment of legislation before the legislature or the members thereof by any person other than a member of the legislature or a public official acting in his official capacity; and . . . promoting or opposing official action by any public official in the event the person engaged in such practice expends \$1,000 per calendar year or more exclusive of personal travel and living expenses".

A "lobbyist" is "any person who engages in the practice of lobbying for hire".

Any citizen of good moral character may be licensed as a lobbyist upon application to the Commissioner of Political Practices and payment of a \$10 license fee.

Each principal (employer of a lobbyist) is required under 5-7-208, MCA, to report to the Commissioner any payments made solely to influence legislative action:

- (1) before February 16 of any year the Legislature meets and to include all payments made in the last calendar year;
- (2) before the 16th day of the month following any month in which the principal spent \$5,000 or more; and
- (3) within 60 days after adjournment of the session and to include all payments made during such session and not previously reported.

The report must detail all expenditures for printing, advertising (including production costs), postage, travel, salaries and fees, entertainment (including all foods and refreshments), telephone and telegraph, and office expenses.

Itemization of expenses must include identification of the payee and the beneficiary of each separate payment conferring \$25 or more in benefits to any public official when the payment was made for lobbying and each separate payment conferring \$100 or more in benefits to more than one public official, regardless of individual benefits when the pay-

ment was made for the purpose of lobbying, except that in regard to a dinner or function to which all Senators or all Representatives are invited, the beneficiary may be listed as all members of that group without listing separately each person attending.

The principal must list the full name and address of each donor of \$250 or more in each year for the purpose of lobbying and must list each official action in which the principal or his or her agents exerted a major effort to support, oppose, or modify, together with a statement of the principal's position for or against such action.

Before December 15 of each even-numbered year, each elected official or official-elect, including legislators, is required by 5-7-213, MCA, to file with the Commissioner a business disclosure statement listing the name, address, and type of business of the individual and each member of his or her immediate family. No individual may exercise the powers of his or her elected office until such a statement has been filed.

Lobbyists and principals are prohibited by 5-7-302, MCA, from engaging in or authorizing any "unprofessional conduct" that, in addition to any violation of the provisions of Title 5, chapter 7, includes:

- (1) instigating action by any public official to obtain employment or in opposition thereto;
- (2) attempting to influence the action of any public official by promise of financial support or by making public any unsubstantiated charge of improper conduct on the part of any other lobbyist, principal, or legislator; or
- (3) attempting to knowingly deceive any public official with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to any public official.

Violation of the lobbyist registration law is punishable by six months in jail and/or a fine of \$200 and is also subject to civil penalties of not less than \$250 or more than \$7,500. A lobbyist who is guilty of "unprofessional conduct" or otherwise violates the lobbyist registration law is subject to revocation of his or her license, and an elected official who violates the law is liable to recall. More serious offenses, such as bribery and improper influence, are covered in the criminal code (45-7-101 and 45-7-102, MCA).

## A LEGISLATOR'S HANDBOOK

Lobbyists as a group wield a tremendous influence over the Legislature—enough so that the lobbyists are often referred to as the third house. Keeping that influence legitimate is the purpose of strict licensing and registration laws. Montana's history is replete with stories of occasions when lobbyists' activities crossed the line between proper and improper influence. Stories of bills in large denominations floating through transoms are well known. Today's lobbyist is usually a highly skilled professional who works to influence a legislator by presenting expert knowledge rather than flattery and personal favors.

The efforts of a lobbyist are admittedly self-serving in that the lobbyist is communicating a client's or employer's concerns to the Legislature. As an advocate, however, a lobbyist provides information of great value to legislators.

In the end, when all the arguments have been presented and each advocate has had his or her say, the legislator is responsible for sorting the conflicting claims and making a decision for which he or she alone is responsible.

## LEGISLATIVE SERVICE AGENCIES

### CHAPTER XIII

## LEGISLATIVE SERVICE AGENCIES

<u>Agency</u>	<u>Agency Head and Title</u>	<u>Helena Office Location</u>
Legislative Council	Robert B. Person Executive Director	State Capitol Room 138 (ph. 444-3064)
Legislative Fiscal Analyst	Teresa O. Cohea Fiscal Analyst	State Capitol Room 105 (ph. 444-2986)
Legislative Auditor	Scott A. Seacat Legislative Auditor	State Capitol Room 135 (ph. 444-3122)
Environmental Quality Council	Deborah B. Schmidt Executive Director	State Capitol Room 106 (ph. 444-3742)
Consumer Counsel	Robert Nelson Consumer Counsel	34 W. Sixth Ave. (ph. 444-2771)

### LEGISLATIVE COUNCIL

The eight members of the Legislative Council, four Senators and four Representatives, are chosen by the Committee on Committees in the Senate and by the Speaker of the House of Representatives. The Council is bipartisan, and the term of office is for a biennium. A new Council is selected before the 50th day of each session.

The law charges the Council with administrative responsibilities relative to the Council staff. An important responsibility of the Council since 1975 has been supervision of the codification of Montana's statutes by a Code Commissioner assigned to the Council staff. The Montana Code Annotated, as published by the Code Commissioner, was adopted as prima facie the law of Montana by Chapter 1, Laws of 1979.

## A LEGISLATOR'S HANDBOOK

The one nonadministrative policy study function assigned to the Council provides a legislative safety valve. The Council may, in the event a problem demanding legislative attention arises during an interim between sessions, assign study of the problem to an appropriate study committee.

The Council may not approve or disapprove substantive portions or recommendations of any interim committee report.

### The Council Staff

The staff of the Legislative Council acts as an independent, nonpolitical, impartial staff agency for the Legislature, performing those duties and functions assigned by law or as directed or requested by members and committees of the Legislature. The Council staff also provides information to the public in legislative matters.

The staff is divided into four functional divisions: Legislative Services Division, Research and Reference Services Division, Legal Services Division, and Management and Business Services Division. Three additional divisions are activated during a legislative session: the Legislative Information Office, Bill Distribution Center, and the Print Shop Liaison.

The Legislative Services Division is responsible for clerical preparation of introduced bills and for engrossing and enrolling of bills. This division uses a computerized word processing system in order to operate with a high degree of effectiveness and accuracy with a relatively small staff of data entry operators and proofreaders. The computerized word processing system is also used in the publication of the Montana Code Annotated. This division is also responsible for the compilation and publication of the following: bill drafting record request index, Internal Reference Report, Rules of the Montana Legislature, code sections affected list, daily bill status report, History and Final Status, House Journal, Senate Journal, session laws, and Montana Code Annotated Annotations.

The Research and Reference Services Division and the Legal Services Division have many of the same responsibilities. Both divisions perform general and specialized research and reference and information functions. Staff members from both divisions may assist in the preparation of the Legislative Review, staff legislative committees during the session and throughout the interim, draft legislation, prepare legislative and staff reports, and provide information on the legislative process to the public.



## LEGISLATIVE SERVICE AGENCIES

The Legislative Council Library contains a specialized collection of material relevant to public policy issues. Additionally, professional staff are available to assist legislators in research, including accessing and using several on-line data bases. Other services are also available to legislators during the interim.

During the interim, the Legal Services Division is responsible for publication and updating of the Montana Code Annotated, reviewing proposed administrative rules, preparing initiative reviews, and issuing legal opinions. The Code Commissioner supervises the continuing codification, indexing, rearranging, and general updating of the Code. Annotations, including case notes to federal and state court decisions and other materials useful to MCA users, are published separately from the statutes in booklet format that may be easily updated.

The Legislative Council copy editors are included in the Legal Services Division and review and edit all legislation (including initiative proposals), various publications, interim reports, and legal memorandums.

The indexing functions are also included within this division. In addition to the 4,381-page index to the Montana Code Annotated, the Legislative Council's indexers provide the subject index for bills, the Journal index, Legislative Review index, session law index, Bill Drafting Manual index, and legislative rules index. The indexers also prepare a list of legislation by sponsor, an LC number-to-bill number table, and effective date tables.

The Research Division has primary responsibility for staffing interim committees and providing reference services. The Research and Reference Services Division maintains a reference library containing items of special interest to legislators and legislative staff. The library maintains a liaison with other libraries to help make information available as quickly as possible.

The Management and Business Services Division maintains all book-keeping records; signs all legislative claims and payrolls; requisitions all printing, supplies, and equipment; and serves the House and Senate during a session.

During a legislative session, the Legislative Information Office is in operation in the Capitol Rotunda. This office works six days a week providing legislative information via toll-free telephone lines and in person to the many Capitol visitors. The office assists in preparing the Legislative

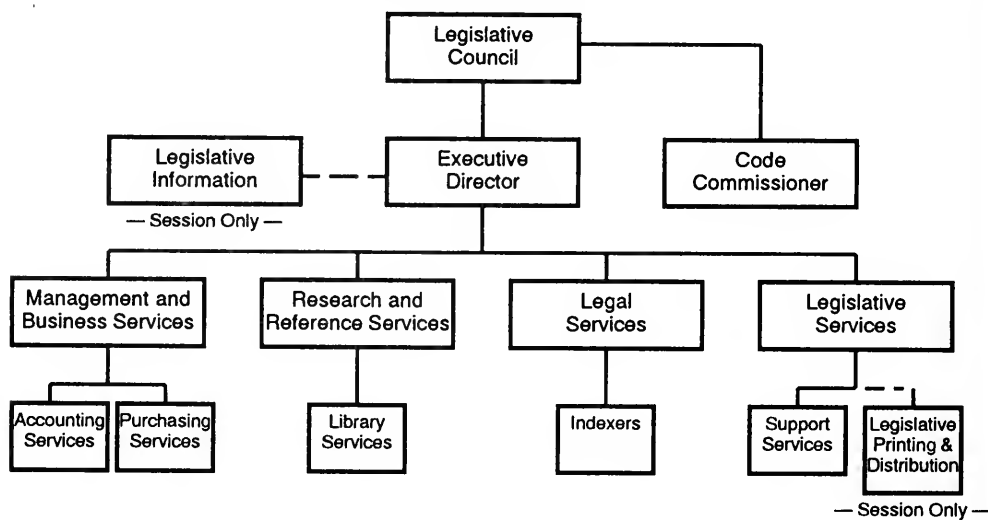
## A LEGISLATOR'S HANDBOOK

**Directory** and prepares daily Committee Hearing Calendars. The office also distributes the Legislative Rules and daily House and Senate second and third reading agendas, seating charts, and other relevant materials.

The Bill Distribution Center distributes bills, amendments, resolutions, indexes, daily status, rules, and journals to legislators, state agencies, lobbyists, and other subscribers to the legislative proceedings. Daily mailings of the proceedings are made to the 56 County Clerk and Recorders and the 12 state libraries.

The printing and distribution staff orders all printing, sets priorities on the printing, and delivers printed proceedings to the House and Senate bill distribution offices.

### LEGISLATIVE COUNCIL



### Legislative Interim Operations

Sections 5-5-202 and 5-5-211 through 5-5-217, MCA, govern legislative committee studies during an interim. During the legislative session, resolutions may be proposed requesting interim studies. Immediately following the session, the Legislative Council must prepare a list of study resolutions adopted by the Legislature and distribute it to each legislator. Each legislator is requested to rank the studies in order of importance. After reviewing the priority lists, the estimated cost of each study, and the staff assistance required for each study, the Legislative Council determines which studies will be undertaken.

## LEGISLATIVE SERVICE AGENCIES

There are four types of committees that function during an interim: full standing committees, interim study committees, select committees, and committees established by law.

Interim study committee members are appointed by the Senate Committee on Committees and the Speaker of the House following designation of the studies to be conducted and assignment of studies to specific committees by the Legislative Council. A study committee consists of four members from each house. No more than two members from each house may be of the same political party. These subcommittees do the majority of the interim work. Each study committee must report its findings and recommendations to the Legislature at the beginning of the next session.

A select committee is formed to examine a particular issue or bill. It operates in a fashion similar to the interim study committees except that it must be supported by a specific budget and may operate under special rules established by law or resolution.

The full standing committees are also authorized to function during the interim. However, they have not traditionally done so, and budgets are not designed to support such activity.

Committees established by law are appointed and meet in accordance with provisions of their authorizing statutes. The Council staff assists such committees upon request. The following statutory committees are currently staffed by the Legislative Council: Revenue Oversight, Coal Tax Oversight, Indian Affairs, Administrative Code, Job Training Partnership Act Review, and Capitol Building and Planning.

### Interim Reports

The reports of the 1991-92 interim subcommittees are available for distribution to legislators, departments of state government, and interested citizens.

## LEGISLATIVE FINANCE COMMITTEE AND OFFICE OF LEGISLATIVE FISCAL ANALYST

The Legislative Finance Act (Chapter 448, Laws of 1975) created the Legislative Finance Committee and the Office of Legislative Fiscal Analyst to aid legislators in budgeting public funds and estimating revenue. The Office of the Legislative Fiscal Analyst analyzes the financial aspects of state government taxes, programs, and policies. Responsibilities of the office are specified in 5-12-302, MCA.

## A LEGISLATOR'S HANDBOOK

### Legislative Finance Committee

The Committee has 12 members, equally divided by house and political party. Four members from each house are appointed from the finance or appropriations committees, while two from each house are appointed from the membership-at-large.

Duties of the Committee are to advise and consult with the Fiscal Analyst concerning financial matters of the state and to review budget amendments certified by the approving authority. The Committee has the investigatory powers of a standing committee.

The goal of the Legislative Finance Committee is to advise and consult with the Fiscal Analyst in fulfilling the duties defined in 5-12-302, MCA, in a manner that best serves the Legislature. The Committee works to ensure the implementation of the last Legislature's fiscal directions, to promote fiscal responsibility, to monitor the state budget, to advise the legislative membership about potential fiscal problems of the state, and to encourage legislators' awareness of Committee business, staff work, and access to staff. The Committee strives to be fair in hearing all aspects of an issue and to uphold the sense of legislative work and fiscal responsibility. Consideration will be given to issues brought to the Committee.

Committee decisions are based on the Constitution, the law, the documentation for legislative fiscal decisions, and a sense of equity.

### Legislative Fiscal Analyst

The Fiscal Analyst staff's primary statutory responsibility is to analyze the executive budget and assist the Legislature in developing the state legislative budget and appropriation bills. In order to analyze the executive budget, the fiscal staff estimates and monitors revenues throughout the biennium and reviews executive agency actions that eventually impact on state fiscal policy.

The Fiscal Analyst's duties are to:

- (1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;
- (2) estimate revenue from existing and proposed taxes;

## LEGISLATIVE SERVICE AGENCIES

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements;

(4) make the reports and recommendations he or she considers desirable to the Legislature and make reports and recommendations as requested by the Legislative Finance Committee and the Legislature;

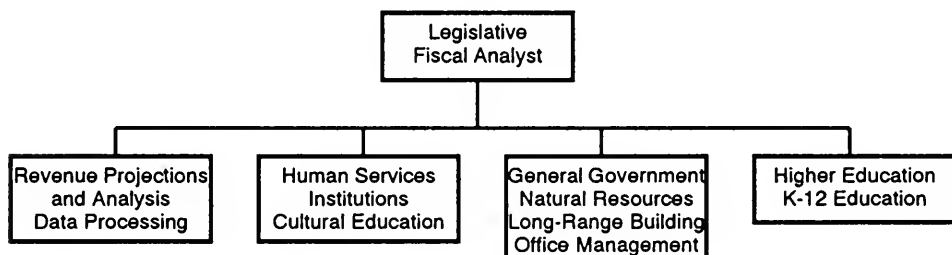
(5) assist committees of the Legislature and individual legislators in compiling and analyzing financial information;

(6) assist the Revenue Oversight Committee in performing its revenue estimating duties; and

(7) review proposed budget amendments and supplementals submitted to the Committee from the Budget Director and make recommendations to the Committee concerning proposed budget amendments.

The Fiscal Analyst staff assists the House Appropriations and Senate Finance and Claims Committees.

### OFFICE OF THE LEGISLATIVE FISCAL ANALYST



## LEGISLATIVE AUDIT COMMITTEE AND OFFICE OF LEGISLATIVE AUDITOR

In 1967, the Legislature enacted The Legislative Audit Act creating a legislative post-audit function in Montana state government.

Article V, section 10(4), of the 1972 Montana Constitution, mandates a legislative post-audit function. The Legislative Audit Act, contained in Title 5, chapter 13, MCA, established the Legislative Audit Committee of the Montana Legislature and the Office of the Legislative Auditor.

## A LEGISLATOR'S HANDBOOK

The Legislative Audit Committee and the Office of the Legislative Auditor provide the Legislature, its committees, and its members with factual and timely information vital to the discharge of their legislative duties. Legislative audit reports also satisfy the federal Single Audit Act of 1984 audit requirements.

### Legislative Audit Committee

The Legislative Audit Committee is a bipartisan standing committee of the Montana Legislature. It consists of four members of the Senate and four members of the House of Representatives. The Audit Committee appoints, consults with, and advises the Legislative Auditor. The Audit Committee also reviews the audit reports submitted by the Legislative Auditor, releases the audit reports to the public, and serves as the conduit between the Legislative Auditor and the Legislature.

### Legislative Auditor

The Legislative Auditor is responsible to the Legislature and operates primarily through the Legislative Audit Committee. His or her term of office is for two years beginning July 1 of each odd-numbered year.

The Legislative Auditor has the statutory authority to examine all books, accounts, and records, confidential or otherwise, of a state agency at any time. All state agencies are required by law to aid and assist the Legislative Auditor in the auditing of books, accounts, and records.

The Legislative Auditor has two general duties prescribed by The Legislative Audit Act, which are to:

- (1) conduct audits of state agencies, programs, and operations; and
- (2) assist the Legislature, its committees, and its members during legislative sessions by gathering and analyzing information when requested.

### Objectives and Standards

The general objectives of audits performed by the Office of the Legislative Auditor are prescribed by law. They are "to determine whether:

- (1) the agency is carrying out only those activities or programs authorized by the legislature and is conducting them efficiently and effectively;

## LEGISLATIVE SERVICE AGENCIES

(2) expenditures are made only in furtherance of authorized activities and in accordance with the requirements of applicable laws and regulations;

(3) the agency collects and accounts properly for all revenues and receipts arising from its activities;

(4) the assets of the agency or in its custody are adequately safeguarded and controlled and utilized in an efficient manner;

(5) reports and financial statements by the agency to the governor, the legislature, and central agencies disclose fully the nature and scope of the activities conducted, and provide a proper basis for evaluating the agency's operations".

The Office of the Legislative Auditor has adopted the standards and procedures for auditing established and advocated by the American Institute of Certified Public Accountants and the United States General Accounting Office. These standards and procedures include the Statements on Auditing Standards, Industry Audit Guides, published by the American Institute of Certified Public Accountants, and the Government Auditing Standards, published by the United States General Accounting Office.

### Audit Reports

Audit reports prepared by the Legislative Auditor present recommendations for improvements in state agency operations and programs. Audit reports are distributed to all interested parties.

Legislative audit reports are made public through formal presentation to the Legislative Audit Committee. Prior to formal presentation and public release, draft audit reports are thoroughly discussed with appropriate administrative officials. Formal written comments and position statements are solicited from administrative officials and incorporated into the printed report. Although the audit reports include comments, recommendations, and suggestions, the Legislative Auditor has no authority to enforce them or direct executive or legislative action.

### Type of Audits

There are three major categories of audits carried out by the Office of the Legislative Auditor and its counterparts at the federal level and in other states. These are:

## A LEGISLATOR'S HANDBOOK

- (1) financial-compliance audits;
- (2) performance audits; and
- (3) electronic data processing (EDP) audits.

The relationship of the various types of audits is shown in the following chart that depicts the scope of governmental audits.

### OBJECTIVES OF AUDITS OF STATE AGENCIES CONDUCTED BY THE OFFICE OF THE LEGISLATIVE AUDITOR

<u>FINANCIAL-COMPLIANCE AUDIT</u>		<u>PERFORMANCE AUDIT</u>		<u>EDP AUDIT</u>
<u>Financial Audit</u>	<u>Compliance Audit</u>	<u>Effectiveness and Program Results Audits</u>	<u>Management and Efficiency Audits</u>	<u>Electronic Data Processing System Audits</u>
Financial Accountability	Federal Laws, Rules, and Regulations	Assessment of Legislative Intent	Assess Economy and Efficiency of Operations	Analysis of General Controls Over DP Facilities and Systems
Internal Accounting Control and Management Control	State Laws, Rules, and Regulations	Achievement of Goals and Objectives	Efficient Utilization of Resources	Assessment of Controls Over Input/Output and Processing
Expenditures Related to Legislatively Authorized Activities		Meeting Desired Program Results	Analysis of Management Organization and Staffing and Communications	Assessment of Security Over Access to DP Systems
Alert for Fraud, Abuse, and Illegal Acts		If Necessary, Analysis of Alternatives to Achieve Desired Results	Analysis of Management Control	
Financial Statement Assurance				

### Financial-Compliance Audits

The Office of the Legislative Auditor conducts biennial financial-compliance audits to determine that an agency's financial operations are properly conducted, the agency has complied with applicable laws and regulations, and the financial reports are presented fairly. Financial-compliance audit staff members hold degrees with an emphasis in accounting. Most staff members hold CPA certificates. The primary objectives of financial-compliance audits are to ascertain that agencies:

- (1) make expenditures only in furtherance of authorized activities and in accordance with the requirements of applicable laws and regulations;



## LEGISLATIVE SERVICE AGENCIES

(2) collect and account properly for all revenues and receipts arising from their activities;

(3) maintain adequate safeguards and accountability for assets in their custody;

(4) submit reports and financial statements to the Governor, the Legislature, and central control agencies that disclose fully the nature and scope of the activities conducted and provide a proper basis for evaluating the agencies' operations;

(5) properly control and account for federal grant funds and spend those funds in accordance with federal regulations; and

(6) remain alert for fraud, abuse, or other illegal acts.

The financial-compliance audit staff audits the state's general purpose financial statements annually to ensure the reasonableness of amounts included in the statements. This "statewide audit" is done in order to maintain the state's favorable position in the credit markets and to provide information that allows comparison of Montana's financial position with that of other states. In addition, the staff prepares a biennial "single audit" report that provides the federal government with information concerning funds granted to Montana state agencies.

### Performance Audits

Performance audits are initiated in six ways:

(1) legislation;

(2) at the request of a House or Senate committee;

(3) at the request of the Legislative Audit Committee;

(4) at the request of an interim committee;

(5) at the request of an individual legislator;

(6) at the request of the Legislative Auditor.

The performance audits completed by the Office of the Legislative Auditor are designed to assess the effectiveness of the operations of state government. In order to fulfill this purpose, the members of the performance audit staff each hold degrees in disciplines appropriate to the audit

## A LEGISLATOR'S HANDBOOK

process. Areas of expertise include business and public administration, statistics, economics, computer science, communications, and engineering.

The performance audit process includes a comprehensive review of statutory directives and a program's goals and objectives. Using this initial review, broad criteria are established, and program operations are then evaluated in relation to proper management, effective control, and efficient use of resources. From this analysis, a determination is then made as to whether the programs are accomplishing their purposes and whether they can do so with greater efficiency and economy.

### EDP Audits

The electronic data processing (EDP) auditors annually perform a central audit of the state's mainframe computer and three of the state's major computer applications. In addition, the EDP auditors perform audits of various other computerized systems and facilities and assist other auditors when their work involves automated systems.

The members of the EDP audit staff hold degrees in disciplines appropriate to the audit process. In addition, the members of the EDP audit staff have specialized training in data processing systems and programming languages.

### Legislative Requests

The Legislative Auditor provides assistance upon request to the Legislature, its committees, and members. Because recent audits of all state agencies have been conducted, detailed objective information on all agencies' operations is available through the Office of the Legislative Auditor. Available services include: cost/benefit analyses, analysis of the effect of proposed legislation, reviews of specific state agency operations, and generation of data on program operations. Requests for assistance by legislators or committees should be directed to the Legislative Auditor.

### Fraud Followup

Law requires state agencies to refer apparent penal violations to the Legislative Auditor. New auditing standards require the Legislative Auditor to be alert for errors and irregularities and to appropriately report instances of fraud or abuse.

## LEGISLATIVE SERVICE AGENCIES

### Audit Committee Report on Licensing Bills

A report from the Legislative Audit Committee must accompany any bill reported out of committee that proposes to establish or study the need for a new occupational or professional licensing board, change the duties of an existing board, or consolidate boards. The form and content of the report are prescribed in 2-8-203(1), MCA.

### **ENVIRONMENTAL QUALITY COUNCIL**

The Environmental Quality Council (EQC) was established in 1971 by the Montana Environmental Policy Act (MEPA). The Act outlined a state policy for the environment: “. . . it is the continuing policy of the state of Montana . . . to use all practicable means and measures . . . to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Montanans”.

MEPA directs state agencies to incorporate environmental considerations into their decisions, to prepare environmental impact statements on major state actions significantly affecting the quality of the human environment, and to extend the provisions of the Act to the existing authorization of all state agencies.

The major task of the EQC is to oversee the state's implementation of MEPA; the Council has no regulatory authority or powers. Although such environmental “watchdog” agencies are common, Montana is the only state in the U.S. to place its agency in the Legislative Branch.

The 13-member EQC includes 12 members chosen by the Legislature, each of whom serves for two years. The Speaker of the House appoints four Representatives (two from each party). The Senate Committee on Committees appoints four Senators (two from each party). The Speaker of the House, with the consent of the House Minority Leader, also appoints two members of the public to serve on the EQC. The President of the Senate, with the consent of the Senate Minority Leader, appoints two public members as well. The 13th EQC member is a nonvoting member appointed by the Governor.

Legislative leaders must look at the following criteria when they select EQC members:

. . . their qualifications to:

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- (1) analyze and interpret environmental trends and information of all kinds;
- (2) appraise programs and activities of the state government in light of the policy set forth in 75-1-103;
- (3) be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state; and
- (4) formulate and recommend state policies to promote the improvement of the quality of the environment.

The EQC members hire an executive director, who in turn hires a 4.5-FTE staff. MEPA outlines 10 duties for the EQC staff:

- (1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to such conditions and trends;
- (2) review and appraise the various programs and activities of the state agencies, in light of the policy set forth in 75-1-103, for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy and make recommendations to the governor and the legislature with respect thereto;
- (3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;
- (4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
- (5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for continuing analysis of these changes or trends and an interpretation of their underlying causes;
- (6) make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the legislature requests;

## LEGISLATIVE SERVICE AGENCIES

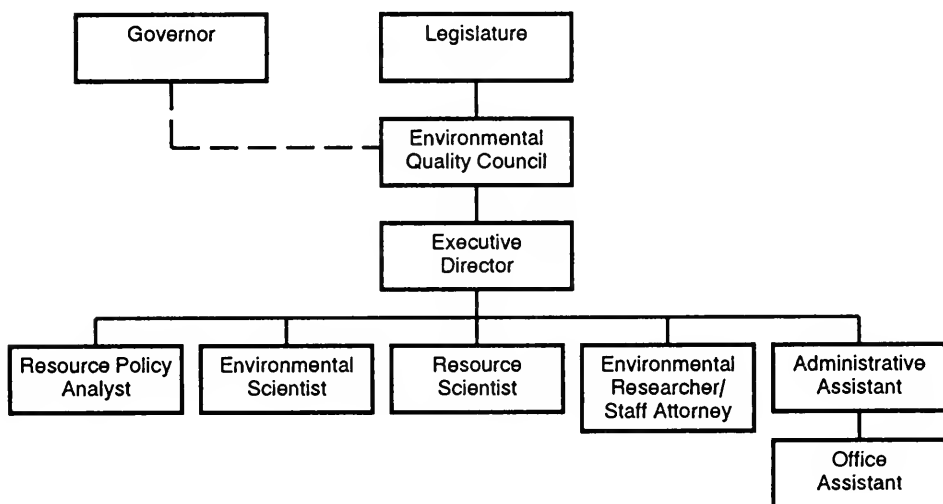
(7) analyze legislative proposals in clearly environmental areas and in other fields where legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan;

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among such activities and with a general ecologic perspective, and suggest legislation to remedy such situations;

(10) annually, beginning July 1, 1972, transmit to the governor and the legislature and make available to the general public an environmental quality report concerning the state of the environment. . . .

### ENVIRONMENTAL QUALITY COUNCIL



In addition to these tasks, EQC staff provides scientific research to legislators, conducts interim studies for the Legislature, and serves as staff to the House and Senate Natural Resources Committees and to the Legislature's Water Policy Committee. The staff also reviews state agency

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environmental impact statements, reviews agency programs as they relate to environmental issues, and assesses state agency compliance with MEPA.

Recent EQC projects include two major studies, one on energy policy and one on lakeshore development, as well as a major project assisting and training state agencies' staffs in the implementation of the Montana Environmental Policy Act (MEPA). EQC staff continually monitor a number of hazardous materials management programs, forest management issues, water quality nondegradation issues, and other environmental quality matters as they arise.

### CONSUMER COUNSEL

The Consumer Counsel is an office mandated by the 1972 Constitution and provided for by a statute enacted in 1973. Supervision and policy guidance come from the Legislative Consumer Committee, four legislators appointed for two-year terms in the same manner as standing committees are appointed. The two members from each house must be from the two parties.

The committee hires the Consumer Counsel, who must be a lawyer with a background in accounting. The Consumer Counsel's main function is to represent the interests of the utility and transportation consumers before the Public Service Commission and federal agencies. In fulfilling this function, the Consumer Counsel and his or her staff fully participate in every major utility rate filing by presenting expert testimony and other evidence and argument to the Public Service Commission. He or she can appeal decisions to the courts and can supply information to legislators regarding regulated transportation and utility rates.

## MONTANA STATE GOVERNMENT

### CHAPTER XIV

## MONTANA STATE GOVERNMENT

### THREE BRANCHES

Like the classic Latin phrase, "All of Gaul is divided into three parts", state government is divided into three branches: the Judicial, Executive, and Legislative. There are only three basic functions of government:

(1) to determine the rules and laws under which government will function (set policy);

(2) to carry out policy; and

(3) to settle disputes arising from interpretations or applications of the policy.

Traditionally, in accordance with our constitutional guarantee of a "republican form of government", each of the functions of government is supposed to be carried out by a separate branch of government. However, the complexity of modern life has required the delegation of substantial policymaking power to the various executive departments. One need only look at the massive administrative code (which contains rules adopted by state agencies pursuant to the "Montana Administrative Procedure Act" that are as binding as law) to know that the Executive Branch also has "lawmaking" power. Also, the Governor has inherent power to issue Executive Orders that sometimes carry as much weight as law.

In fact, the legislative function is exercised in some degree by all three branches of government—even by the courts. Historically "judge-made law" is the principal source of our common law, and by interpreting laws, declaring some of them void, unconstitutional, etc., the courts are constantly exercising "legislative power".

In other words, absolute "Separation of Powers" is somewhat of a fiction in light of the extensive overlap that exists.

### JUDICIAL BRANCH

The judicial power of the state is vested in the Supreme Court, consisting of a Chief Justice and six Justices; District Courts; Justices' Courts; and City Courts.

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The Supreme Court hears appeals from the District Courts and is also a court of original jurisdiction in certain cases. For instance, if it is imperative that a law be interpreted as quickly as possible, the Supreme Court may assume original jurisdiction and decide the controversy at once. Examples of such cases are controversies concerning laws that might affect an upcoming election or that are causing a public strike of an emergency nature. Any inquiries regarding the Supreme Court should be directed to the Chief Justice.

### Clerk of Court

The Clerk of the Supreme Court keeps all Supreme Court records. If you want to read a particular court decision or simply find out something about the Supreme Court, visit the Clerk's office first.

### Supreme Court Administrator

The Administrator of the Supreme Court is the chief administrative staff person of the judiciary. Answerable to all seven members of the Supreme Court, the administrator executes the day-to-day administrative operations of the Supreme Court, including administrative matters concerning district courts and courts of limited jurisdiction.

## EXECUTIVE BRANCH

Prior to a 1970 constitutional amendment, the Executive Branch consisted of about 188 separate agencies. There are now 15 principal departments under the authority of the Governor and the Lieutenant Governor.

Other elected officials head separate agencies:

- (1) Attorney General, the Department of Justice;
- (2) Superintendent of Public Instruction, the Office of Public Instruction;
- (3) State Auditor, the Insurance Department and the Investment Department;
- (4) Secretary of State, the Office of the Secretary of State;
- (5) Public Service Commissioners (five), the Department of Public Service Regulation.



## Identifying the Proper Agency

One of the first questions a legislator asks is, "Where do I find this particular information about a particular program in the Executive Branch?"

The legislator needs to know which agency is likely to have the information he or she needs. There are various sources to use in identifying the proper agency:

(1) The Department Organization Charts. The name of the division, bureau, or section is usually a clue to its functions. Organizational charts for each executive department are available and can be provided to legislators who want them.

(2) Executive Budget Book. The average legislator can make tremendous use of this book. It will be very useful if you initially select departments and programs that especially interest you or are of importance to your constituents and spend time becoming familiar with them. The budget book is organized on the "program approach" so that a reader can easily determine which agencies are responsible for which programs and how much the programs cost. A copy of the budget book is among the reading materials given each legislator when the session begins. The budget analysts in the Governor's Office of Budget and Program Planning are always willing to answer questions on issues raised in the budget.

## Department Contact

Because of space limitations for explaining programs and agency operations, the budget book is not a complete source of information. Many legislators will want to go directly to the department. Most of the departments are no longer located in the Capitol. The Legislative Directory lists the various agencies, street addresses, and telephone numbers. Call the director, identify yourself as a legislator, specify the information you are interested in, and find out if and when you may see him or her. The director will be glad to discuss his or her department with you and will make the proper members of his or her staff available to you. Initial contact with an agency on an issue or on a problem should be made through the department director's office.

## Executive Branch Legislative Liaison

Usually the Governor appoints a legislative liaison as the person to contact if you want to know:

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the Governor's position on legislation (very often he or she may have none), general information concerning the Executive Branch, how to approach a certain agency, who to see, etc. The Legislative Council staff is always available as an information source. However, during the session, staff members assist committees, draft bills, etc., and do not have ample time for in-depth research. As a result, the major source of information about the executive agencies remains with the executive agencies. A legislator must be aware that this information is not always the most objective information; the agencies usually have something at stake with various alternatives. Experienced legislators can tell you which agency people tend to paint their agency in as glowing a light as possible and which can be relied upon to give you unbiased answers. Freshmen legislators have to learn.

A former legislator had this advice for approaching executive agency personnel:

The best approach I've found when contacting agencies is to use a little bit of psychology. If you go into the agency like Gangbusters, with a chip on your shoulder and a club in your hand, the chances are that you'll be met by a very polite fellow with a chip on his shoulder and a club in his hand. And he'll very politely rap you over the head with it. And you won't know what happened. You wind up in an agency and you talk to agency operator "A" and "B" and all of a sudden you're on the fire escape outside and you haven't found out anything. On the other hand, if you have a sincere and conscientious desire to investigate some program, and it's expressed that way, you'll usually have good cooperation from agency people even in this quasi-adversary system where the agency may be "on the spot". You'll also find that many agency people think that the Legislature is like the common cold, a necessary evil. In spite of the semi-adversary ways of proceeding, if you develop a relationship with those agencies, you can get specific answers to specific questions.

Another former legislator had this to say:

Legislators are supposed to be policymakers but lately the role has been reversed with the policy and the Legislature merely acting as a veto body or as a rubber stamp to OK the programs.

If, as a legislator you have a special area of interest—for instance, highway contracts or state grazing leases and you think there might be a problem—maybe you've heard rumors about this and that but you're not sure that legislation is needed—why not talk it over with the appropriate committee chairman? If the area of interest is of broad

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enough concern it's possible to have the committee call the department director and responsible personnel for a heart-to-heart question and answer period.

Just how does the department let contracts? Just exactly what does this program do? Have you thought about this alternative? Why is it really necessary? What would happen if we abolished it? Why couldn't this other division do it?

Legislators often have very good ideas that work. You should have the opportunity to at least ask the executive agency if they have thought of alternatives. If so and it was discarded, why? This suggestion might save the time and expense of offering bills that aren't really necessary.

You won't find a format for this or even any precedent but it might be worth a try.

### Suggestions for Seeking Information

(1) Make certain that requests submitted to agencies are reasonable and can be handled with a minimum amount of inconvenience.

(2) If you don't know the person best able to help you with this request, ask the department director or the Governor's office to find out who is the best contact. Once you have contacted him or her, let that person deal with it and don't try to go around him or her and bring all sorts of other people in. In order to identify this person, use those resources at your disposal, including the director, agency directories, informed persons within the agency, other legislators, and lobbyists. (Keep a little notebook handy in which you can jot down "What's-his-or-her-name in the \_\_\_\_\_ department—handles such and such problems.")

(3) Because time is one of the most valuable commodities for legislators and agency employees, requests should be as brief and succinct as possible and you should always indicate the urgency of your requests.

(4) Since your initial contact about any problem will usually be over the phone, always identify yourself as a Senator or Representative. Use a followup procedure that reminds the agency of the request and keeps fresh in your mind the purposes of the inquiry. One technique for doing this is to make a request by reducing it to a succinct written request sent to the attention of someone in the agency with whom you've developed some rapport. You'll find it's much easier for the agency to handle. And, furthermore, you'll have a record of what you asked. And when the information comes back, you'll be able to compare it with the question

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that you posed on the paper. Strangely enough, lots of times a question comes to your mind, you ask it over the telephone, the agency goes to work on it, and a couple of weeks, maybe a month, later you get some information back on it and you've forgotten the question! You've forgotten why you wanted to know that. So, it's a good idea, every time that you can, to reduce the thing to writing and send it to the agency. If you can't do that, at least make a memo to yourself as to the nature of the inquiry and why you want the information. It's helpful if you also include what the hunch was that prompted you to ask the question.

(5) Finally, do the proper follow-up work in order to communicate the results of your request to the proper persons, to a constituent, a committee, or yourself.



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